

**Minutes of 1073rd Meeting of the
Town Planning Board held on 21.11.2014**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Dr W.K. Yau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Mr Francis T.K. Ip

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Assistant Director (2), Home Affairs Department
Mr Eric K.S. Hui

Director of Lands
Ms Bernadette H.H. Linn

Director of Planning
Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Ms Bonnie J.Y. Chan

Professor K.C. Chau

Ms Christina M. Lee

Dr Eugene K.K. Chan

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Miss Winnie M.W. Wong

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Ms Lily Y.M. Yam (Items 1 to 3 and 6 to 11)
Mr Louis K.H. Kau (Items 4 and 5)

Senior Town Planner/Town Planning Board
Mr Raymond H.F. Au (Items 1 to 3 and 6 to 11)
Ms Karen F.Y. Wong (Items 4 and 5)

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1072nd Meeting held on 7.11.2014

[The meeting was conducted in Cantonese.]

1. The minutes of the 1072nd meeting held on 7.11.2014 were confirmed without amendments.

Agenda Item 2

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) [Closed Meeting]

2. This item was recorded under confidential cover.

[Ms Julia M.K. Lau, Dr Wilton W.T. Fok, Mr Lincoln L.H. Huang and Mr Francis T.K. Ip arrived to join the meeting at this point.]

- (ii) The Court of Appeal's Judgment on Three Judicial Reviews lodged by Oriental Generation Limited against the Town Planning Board in respect of the Kai Tak Mansion Site on the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plans_ No. S/K13/26 and S/K13/27 (HCAL 62/2011, 209/2011 and 34/2012)

[Open Meeting]

3. The following Members had declared interests in this item as the Department of Architecture and Department of Mechanical Engineering of the University of Hong Kong (HKU) and Ove Arup and Partners Hong Kong Limited (OAP) were consultants of the Applicant (Oriental Generation Limited (OGL)) who had submitted a representation (R6) in respect of the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26:

- Professor S.C. Wong - being Chair Professor and Head of Department of Civil Engineering, HKU and external examiner of SPACE, HKU; and had business dealings with OAP
- Dr Wilton W.T. Fok - being Principal Lecturer (Industrial Training Manager), Department of Electrical and Electronic Engineering, HKU
- Mr H.F. Leung - being Associate Professor, Department of Real Estate & Construction, Faculty of Architecture, HKU
- Mr F.C. Chan - being Hon. Professor, Department of Electrical and Electronic Engineering, HKU
- Mr Dominic K.K. Lam - having business dealings with HKU and OAP
- Mr Ivan C.S. Fu] having business dealings with OAP
- Mr Patrick H.T. Lau]

4. As this item was only to report the judgment of the Court of Appeal (CA), Members agreed that the above Members should be allowed to stay in the meeting. Members noted that Mr H.F. Leung and Mr Ivan C.S Fu had not yet arrived at the meeting.

5. The Secretary reported that the CA judgment on the appeals in respect of the three judicial review (JR) applications lodged by OGL was handed down on 13.11.2014. The CA unanimously dismissed the Town Planning Board (the Board)'s appeal (CACV 127/2012) and made an order *nisi* that the Board should pay the costs of OGL in the appeal. For OGL's cross-appeal (CACV 129/2012), the CA considered that it was not necessary to grant the relief sought given that most of the grounds raised in the cross-appeal were rejected, and made an order *nisi* that the Board should pay 1/4 of the costs for the cross-appeal by OGL. Members noted that a copy of the CA judgment had been sent to them before the meeting.

6. The Secretariat of the Board was studying the CA judgment with the Department of Justice and the outside Counsels. Members noted that any application for leave to appeal to the Court of Final Appeal should be lodged within 28 days of the CA's decision (i.e. by 11.12.2014) and agreed that the Chairman and the Secretary would represent the Board and act on behalf of the Board on all matters related to the appeals. Members' views on the way forward would be sought in due course.

(iii) The Court of Appeal's Judgment on the Two Judicial Reviews lodged by Hysan Group Companies against the Town Planning Board in respect of the Draft Causeway Bay Outline Zoning Plan No. S/H6/15 (HCAL 38/2011) & Draft Wan Chai Outline Zoning Plan No. S/H5/26 (HCAL 57/2011)

[Open Meeting]

7. The following Members had declared interests on this item:

H6 - Causeway Bay OZP

- | | | |
|---|---|--|
| Mr Roger K.H. Luk | - | his spouse owning a flat in Tai Hang |
| Mr Dominic K.K. Lam | - | his spouse owning a flat at Caroline Hill Road |
| Ms Bonnie J.Y. Chan | - | her spouse owning properties in Tai Hang |
| Ms Bernadette H.H Linn
(Director of Lands) | - | owning a flat at Broadwood Road |

H5 – Wan Chai OZP

- | | | |
|------------------------|---|--|
| Ms Julia M.K. Lau | - | owning two flats at Star Street |
| Mr Laurence L.J. Li | - | co-owning with spouse a flat near St. Francis Street |
| Mr Clarence W.C. Leung | - | co-owning with spouse a flat at Queen's Road East |
| Mr Sunny L.K. Ho | - | his office was at Hopewell Centre |
| Mr Stephen H.B. Yau | - | his office was at Southorn Centre |

- Ms Winnie M.W. Wong - owning a flat at Kennedy Road
(*PAS (Transport),
Transport and Housing
Bureau*)
- Mr K.K. Ling - owning a flat at Queen's Road East
(*Director of Planning*)
- Professor S.C. Wong - being Chair Professor and Head of
Department of Civil Engineering, HKU.
Some activities of the department were
sponsored by Lee Hysan Foundation.

8. As this item was only to report the judgment of the Court of Appeal (CA), Members agreed that the above Members should be allowed to stay in the meeting. Members noted that Ms Bonnie J.Y. Chan and Miss Winnie M.W. Wong had tendered apologies for being unable to attend the meeting, and Mr Roger K.H. Luk, Mr Clarence W.C. Leung, Mr Laurence L.J. Li and Ms Bernadette H.H Linn had not yet arrived at the meeting.

9. The Secretary reported that the CA judgment on the appeals in respect of the two judicial review (JR) applications lodged by the Hysan Group Companies (Hysan) was handed down on 13.11.2014. The CA unanimously allowed Hysan's appeals (CACV 232/2012 and 233/2012). In the light of the CA's decision on those two appeals, the Town Planning Board (the Board)'s cross-appeal was considered academic. The CA had directed the concerned parties to agree on the terms of the order (including order for costs) within 21 days of the judgment. Members noted that a copy of the CA judgment had been sent to them before the meeting.

10. The Secretariat of the Board was studying the CA judgment with the Department of Justice and the outside Counsels. Members noted that the Board had to agree on the terms of the order with Hysan within 21 days of the CA's decision (i.e. by 4.12.2014), and that any application for leave to appeal to the Court of Final Appeal should be lodged within 28 days of the CA's judgment (i.e. by 11.12.2014). Members agreed that the Chairman and the Secretary would represent the Board and act on behalf of the Board on all matters related to the appeals. Members' views on the way forward would be sought in due course.

[Mr David T.Y. Lui arrived to join the meeting at this point.]

(iv) Approval of Draft Plans

[Open Meeting]

11. The Secretary reported that on 4.11.2014, the Chief Executive in Council approved the following draft plans under section 9(1)(a) of the Town Planning Ordinance. The approval of the plans was notified in the Gazette on 14.11.2014:

- (a) Tin Fu Tsai Outline Zoning Plan (renumbered as S/TM-TFT/2); and
- (b) Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area Plan (renumbered as DPA/NE-TT/2).

[Ms Julia M.K. Lau and Dr Wilton W.T. Fok left the meeting temporarily at this point.]

(v) New Town Planning Appeal Received

Town Planning Appeal No. 11 of 2014

Proposed Hotel in “Residential (Group A)7” Zone, 291-295 Queen’s Road West,
Sai Ying Pun

(Application No. A/H3/418)

[Open Meeting]

12. The Secretary reported that a Notice of Appeal dated 18.11.2014 against the decision of the Town Planning Board (the Board) on 5.9.2014 to reject on review an application (No. A/H3/418) for a proposed hotel development at a site zoned “Residential (Group A)7” on the approved Sai Ying Pun and Sheung Wan Outline Zoning Plan No. S/H3/29 was received by the Appeal Board Panel (Town Planning). The application was rejected by the Board for the following reasons:

- (a) the application site was located in an area intended for high-density residential development. Given the current shortfall in housing supply, the site should be developed for its zoned use. The proposed hotel development would result in reduction of sites for residential development and affect the

supply of housing land in meeting the pressing housing demand of the territory;

- (b) there was no planning merit to justify the hotel development; and
- (c) the approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of which would aggravate the shortfall in the supply of housing land.

13. Members noted that the hearing date of the appeal was yet to be fixed and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(vi) Abandonment of Town Planning Appeal

Town Planning Appeal No. 9 of 2013

Proposed Hotel (Guesthouse) in "Residential (Group A)" Zone,

2nd Floor, Block A, Wah May Building,

Nos. 36A-36B Shantung Street, Mong Kok

(Application No. A/K3/547)

[Open Meeting]

14. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 9 of 2013 was received by the Appeal Board Panel (Town Planning)(ABP) on 28.11.2013 against the decision of the Town Planning Board on 13.9.2013 to reject on review an application (No. A/K3/547) for a proposed Hotel (Guesthouse) at a site zoned "Residential (Group A)" on the Mong Kok Outline Zoning Plan. The appeal was abandoned by the appellant on 13.11.2014 and on 17.11.2014, and the ABR formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

(vii) Town Planning Appeal Decision Received

Town Planning Appeal No. 5 of 2013

Four Proposed Houses (New Territories Exempted Houses) in “Undetermined” zone, Lot 757 in D.D. 115, Tung Shing Lei, Nam Sang Wai, Yuen Long

(Application No. A/YL-NSW/212)

[Open Meeting]

15. The Secretary reported that the appeal was lodged by the appellant to the Appeal Board Panel (Town Planning)(ABP) against the Town Planning Board (the Board)’s decision to reject on review an application (No. A/YL-NSW/212) for four proposed houses (New Territories Exempted Houses)(NTEHs) within the “Undetermined” (“U”) zone on the approved Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/8.

16. The appeal was heard by the ABP on 28 to 29.5.2014 and 18.8.2014, and on 31.10.2014, the appeal was dismissed by the ABP mainly for the following reasons:

- (a) each planning application should be considered on its own merits. It was not accepted that developing NTEH at the site was a permitted land use as far as the planning intention of the site was concerned;
- (b) the approval was considered premature and might jeopardise the overall land use planning of the area;
- (c) sufficient inquiries had been made by the Board in reaching the decision that the application might jeopardise the overall land use planning of the area;
- (d) the Board had not failed to demonstrate with evidence how the grant of planning permission for the four proposed Small House developments would be premature and prejudicial to the outcome of the land use review; and
- (e) there were insufficient planning merits in the appellant’s application, and the Board’s decision to refuse the planning application was beneficial to sound comprehensive planning of the area.

17. Members noted that a copy of the Summary of Appeal and the ABP's decision dated 31.10.2014 had been sent to them before the meeting.

(viii) Appeal Statistics

18. The Secretary reported that as at 21.11.2014, 17 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	31
Dismissed	:	133
Abandoned/Withdrawn/Invalid	:	183
Yet to be Heard	:	17
Decision Outstanding	:	1
Total	:	365

Sha Tin, Tai Po and North District and Sai Kung and Islands District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Further Representations on Proposed Amendments to the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1 Arising from Consideration of Representations and Comments on the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1

Consideration of Further Representations on Proposed Amendment to the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1 Arising from the Consideration of Representations and Comments on the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1

Consideration of Further Representations on Proposed Amendment to the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1 Arising from Consideration of Representations and Comments on the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1

(TPB Papers No. 9786, 9787 and 9788)

[The meeting was conducted in Cantonese and English]

Further Representations

Hoi Ha Outline Zoning Plan (OZP)

HH-F1 to F20, F33 to F35, F38 to F45, and F47- F51

So Lo Pun OZP

SLP-F1 to F21

Pak Lap OZP

PL-F1 to F11

Presentation and Question Sessions

19. The Chairman said that on 7.11.2014, the Town Planning Board (the Board) agreed that the further representations (FRs) in respect of the draft Hoi Ha OZP, draft So Lo Pun OZP and draft Pak Lap OZP would be heard together to ensure the smooth and efficient conduct of the meeting. In view of the large number of attendees to the further hearing session and that the FRs were related to the proposed amendment items only, a total of 10 minutes presentation time was recommended to be allotted to each person in his/her capacity as FR and the original representer and commenter, or their authorised representative, for presenting his/her views in the hearing. Some 30 further representers, original representers and commenters, and their authorised representatives had registered to attend the meeting. They would be invited to make oral submissions in the order of further representers, followed by the original representers and then commenters. There would be a Question and Answer (Q & A) session after the oral submissions. As sufficient notice had been given to the further representers, original representers and commenters to invite them to attend the meeting, Members agreed to proceed with the hearing of the FRs in the absence of the other further representers, original representers and commenters who had indicated that they would not attend or had made no reply.

20. The Secretary reported that on 19.11.2014 and 20.11.2014, over 170 e-mails (in two standard formats) from chairpersons/committee members/members of New Territories Heung Yee Kuk, various rural committees and district councils, villages and individuals objecting to the proposed amendment(s) gazetted on 25.7.2014 arising from the consideration of representations and comments in respect of the Hoi Ha OZP, So Lo Pun OZP and Pak Lap OZP were received. Some of the senders were further representers or original representers/commenters in respect of the draft OZPs. A sample each of the two sets of

e-mails as well as a list of senders had been tabled at the meeting for Members' reference. The full set of e-mails was deposited at the Secretariat of the Board for Members' inspection.

21. The Secretary reported that three letters submitted by the village representatives (VRs) of Hoi Ha, So Lo Pun and Pak Lap respectively before the meeting had also been tabled at the meeting for Members' reference.

[Mr Clarence W.C. Leung and Mr Frankie W.C. Yeung arrived to join the meeting at this point.]

22. Members noted that a replacement page (p.1) each of TPB Papers No. 9786 and 9787 were tabled at the meeting.

23. The following representatives of the Planning Department (PlanD) and the Agriculture, Fisheries and Conservation Department (AFCD), the further representers, original representers and commenters, and their representatives were invited to the meeting at this point:

- | | | |
|--------------------|---|---|
| Mr C.K. Soh | - | District Planning Officer/Shia Tin, Tai Po and North (DPO/STN), PlanD |
| Mr Ivan M.K. Chung | - | District Planning Officer/Sai Kung and Islands (DPO/SKIs), PlanD |
| Mr David Y.M. Ng | - | Senior Town Planner/Country Park Enclaves(1) (STP/CPE1), PlanD |
| Ms Channy C. Yang | - | Senior Town Planner/Country Park Enclaves(2) (STP/CPE2), PlanD |
| Mrs Alice K.F. Mak | - | Senior Town Planner/Sai Kung (STP/SK), PlanD |

Mr Cary P.H. Ho - Senior Nature Conservation Officer (South)
(SNC/S), AFCD

Mr K.W. Cheung - Senior Nature Conservation Officer (North)
(SNC/N), AFCD

Mr Alan L.K. Chan - Senior Marine Parks Officer (SMP), AFCD

Further Representations

HH-F4/SLP-F2 /PL-F2 – Paul Zimmerman

Mr Paul Zimmerman - Further Representer

HH-F39 /SLP-F5/PL-F5 - Tony Nip

Mr Tony Nip - Further Representer

HH- F40/SLP-F6/PL-F6 - Chiu Sein Tuck

Dr Chiu Sein Tuck - Further Representer

HH- F41/SLP-F7/PL-F7 - Woo Ming Chuan

Ms Woo Ming Chuan - Further Representer

HH- F47 – Amy Newberry

Professor Gordon Maxwell - Further Representer's representative

HH- F48 - Cynthia Yau

Dr Cynthia Yau - Further Representer

HH-F12 - 黃素卿

SLP-F13 - Wong Yung

SLP-F15 - Angel Garralda

SLP-F18 - Ray Lam

HH/SLP/PL-R32 - 李耀斌

SLP-R10741 - Jane Wong

SLP-C3677 - Wong So Chun

Mr Li Yiu Bun - Representer and Further Representers,
Representers and Commenter'
representative

SLP-F16 - Wong Sik Ling

SLP-F21 - 鎖羅盆村委員會

SLP-R10739 /SLP-C3670 - 黃佑民

SLP-R10812/SLP-C3669 – Wong Hing Cheung

SLP-C3675 - Margaret Wong

SLP-C3676 - Wayne C. Wong

Mr Wong Hing Cheung - Further Representers, Representer and
Commenters' representative

PL-F10 - 劉天來

PL-R10736 - 劉成

Mr Kong Chee Cheung] Further Representer and Representer's
Ms Tsai Yen Mie] representatives
Mr Wong Ming Fai]

Representations

HH/SLP/PL-R18 - 翁焯發

Mr Yung Wong Fat - Representer

HH/SLP/PL-R28 - 陳祖旺

Mr Chan Cho Wong - Representer

HH/SLP/PL-R800 - Christine Chan

HH/SLP/PL-R3752 - 李婷婷

HH/SLP/PL-R3900 - Judy Kai

HH/SLP/PL-R6868 - Helen Yip

HH/SLP/PL-R8260 - Tammy Lam

HH-R10874/SLP-R10820/PL-R10738 - World Wide Fund Hong Kong (WWF(HK))

Mr Chan Chung Ming - Representers' representative

HH/SLP/PL-R878 - Tom Hou

Mr Tom Hou - Representer

HH/SLP/PL-R4662 - Tan Kit Sun

HH/SLP/PL-R10585 - Fauna

HH/SLP/PL-C1787 - Nikki Suen

HH-R10883/SLP-R10821/PL-R10739 - Kadoorie Farm & Botanic Garden (KFBG)

Mr Tony Nip - Representers and Commenter's representative

HH/SLP/PL-R10641 - Tam Kwok Sun

Mr Tam Kwok Sun - Representer

HH-R10871/SLP-R10848 /PL- R10751/ HH/SLP/PL-C3653 - Cheng Hang Fan

Ms Cheng Hang Fan - Representer and Commenter

HH-R10750 - Nicola Newbery

Mrs Nicola Newbery - Representer

HH-R10752 - David Newbery

HH-R10786 - John Mackay

Mr David Newbery - Representer and Representers' representative

HH-R10836/SLP-R10750 – K.C. Chiu

Mr K.C. Chiu - Representer

HH-R10870 – The Professional Commons

Dr Robin Bradbeer] Representers' representatives

Mr Ng Wing Fai, Stanley]

SLP-R10736 - 鎖羅盆村村務委員會聯同曾家裘測量師有限公司

Mr Thomas Tsang Ka Kau]
Mr Yip Chak Yu] Representers' representatives
Mr Lam Tsz Kwai]

SLP-R10737 - 范富財(蛤塘村原居民村代表)

Mr Fan Foo Choi - Representers

SLP-R10740 - 曾玉安

Mr Tsang Yuk On - Representers

SLP-10762 - 黃富、黃冠英

Mr Wong Fu - Representers

SLP-R10819 - The Hong Kong Bird Watching Society

Ms Jocelyn Ho - Representers' representative

Comments

HH/SLP/PL-C386 - Ruy Barretto

Mr Ruy Barretto - Commenters

SLP-C3672 - 黃素珍

Ms Wong So Chun, Jane - Commenters

24. The Chairman extended a welcome and explained the procedure of the hearing. He said that the meeting would be conducted in accordance with the "Guidance Notes on Attending the Meeting for Consideration of the Further Representations in respect of the Draft Hoi Ha OZP No. S/NE-HH/1, the Draft So Lo Pun OZP No. S/NE-SLP/1 and the Draft Pak Lap OZP No. S/SK-PL/1" (Guidance Notes) which had been provided to all further representers, original representers and commenters prior to the meeting. In particular, he highlighted the following main points:

- (a) as FRs should only be related to the proposed amendment(s) to the three draft OZPs, and in view of the large number of representations, comments and FRs received, it was necessary to limit the time for making oral submissions. 10 minutes was the time allotted to each speaker at the further hearing for making oral submission, no matter he/she was a representer, commenter, further representer and/or an authorised representative of the representer(s)/commenter(s)/further representer(s). The same time limit of 10 minutes also applied to oral submission covering one or more OZPs;
- (b) where a representer/commenter/further representer had authorised a representative to speak on his/her behalf, such representative would take over the 10-minute time slot allocated to the representer/commenter/further representer;
- (c) the oral submission might elaborate further or highlight the essential points in support of the subject representation/comment/FR. It might also present any counter arguments or make further clarifications in response to points made by other parties as contained in the relevant TPB paper(s) or presented at the meeting;
- (d) request for further time for making oral submission from a representer/commenter/further representer or his/her authorised representative would be considered by the Board. The Board retained discretion on any such request which would be exercised upon sufficient cause shown and after taking into account all relevant circumstances; and
- (e) to ensure a smooth and efficient conduct of the meeting, the Chairman might request the speaker not to repeat unnecessarily the same points of arguments which had already been presented by the others at the meeting. Any oral submission which was repetitive, abusive or on any other reasonable grounds might be stopped even before the allotted time had expired.

25. The Chairman said that each presentation, except with time extension allowed, should be within 10 minutes and there was a timer device to alert the speaker 2 minutes before the allotted 10-minute time was to expire and when the allotted 10-minute time limit was up. The representatives of PlanD would first be invited to make a presentation on the draft Hoi Ha OZP, the draft So Lo Pun OZP and the draft Pak Lap OZP. After that, the Chairman would invite the further representers or their authorised representative(s) to make oral submissions in turn, followed by the representers and then commenters or their authorised representative(s). After the oral submissions, there would be a Q & A session which Members could direct question(s) to any attendee(s) of the meeting. He then invited the representatives of PlanD to brief Members on the proposed amendment(s) and FRs in respect of the three draft OZPs.

Hoi Ha OZP

26. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in TPB Paper No. 9786:

Background

- (a) on 27.9.2013, the draft Hoi Ha OZP No. S/NE-HH/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (TPO). A total of 10,824 valid representations and 3,671 valid comments were received;
- (b) after giving consideration to the representations and comments in respect of the draft OZP, the Board decided on 4.6.2014 to partially uphold 9,995 representations by rezoning an area to the west of the existing village cluster from “Village Type Development” (“V”) and “Green Belt” (“GB”) to “GB(1)” (i.e. proposed Amendment Items A and B);
- (c) on 4.7.2014, the proposed amendments to the draft Hoi Ha OZP No. S/NE-HH/1 were considered and agreed by the Board;
- (d) on 25.7.2014, the proposed amendments to the draft Hoi Ha OZP were

exhibited for public inspection under section 6C(2) of the TPO. Upon expiry of the three-week exhibition period, a total of 54 FRs were received;

- (e) on 24.10.2014, the Board decided that F21 to F32, F36, F37, F46 and F52 to F54, which were submitted by the original representers or commenters, were invalid and should be treated as not having been made under the TPO. After discounting the invalid FRs, the number of valid FRs was 36 (i.e. F1 to F20, F33 to F35, F38 to F45, and F47 to F51);

The FRs

- (f) the 36 valid FRs were all submitted by individuals. 21 FRs (F1 to F20 and F42) supported, or partly supported and partly opposed the proposed amendments; 10 FRs (F33 to F35, F38 to F41 and F43 to F45) opposed the proposed amendments; and the remaining five FRs (F47 to F51) had not indicated clearly whether they supported or opposed the proposed amendments;

[Mr H.F. Leung arrived to join the meeting at this point.]

Grounds of FRs and Further Representers' Proposals

FRs opposing excessive "V" zone and/or expressing concerns on the environmental issues of the area

- (g) F1 and F2 supported the proposed amendments or the reduction of "V" zone;
- (h) 34 FRs (F3 to F20, F38 to F45, F47, F48, F50 and F51) partly supported and partly opposed the proposed amendments and/or expressed concerns on the environmental issues of the area. Their main grounds of FRs were summarised as follows:

- (i) it was not clear whether the size of the “V” zone under the proposed Amendment Item A was based on proven genuine need for Small Houses. The Small House demand figures were unjustified and the size of the “V” zone should be commensurate with the actual need of indigenous villagers (F4, F7 to F20 and F38 to F43);
- (ii) the planning intention of the Tai Long Wan OZP to primarily conserve the scenic and unspoiled natural environment (in that only the existing village areas were covered under the “V” zones) was applicable to the Hoi Ha area. The more stringent planning control in the Tai Long Wan OZP should be adopted (F4, F5 and F38 to F41);
- (iii) the current sewage treatment arrangements in villages would not be able to protect the water bodies in and surrounding the Hoi Ha area from pollution caused by human activities. In particular, the septic tanks and soakaway (STS) systems of Small House developments would have adverse water quality impact on the Hoi Ha Wan Marine Park (HHWMP) (F4, F5, F7 to F20, F39 to F41, F44 and F48);
- (iv) there was a lack of assessment on the cumulative impacts (such as ecology, landscape and water pollution) of Small House developments on the country park enclave (CPE) (F4 and F38) in consideration of its carrying capacity (F4); and
- (v) the “GB(1)” zone was inadequate to protect the local habitats. The majority of the “GB(1)” zone consisted of private land owned by property developers. Farming activities, which were always permitted within the “GB(1)” zone, might be designed to destroy anything of ecological interest with an attempt to get favourable consideration for subsequent building development, i.e. ‘destroy first, build later’. Besides, fertilisers and pesticides from farming

activities might pollute HHW to the immediate north (F7 to F20, F38 and F42 to F44);

- (i) the proposals of the further representers were:

To further confine the “V” zone

- (i) a number of FRs (F3 to F5, F7 to F20, F38 to F41 and F45) proposed to substantially reduce the “V” zone or further confine the “V” zone to the existing settlement, and to rezone the remaining “V” zone to “GB” or “GB(1)” mainly on environmental grounds;

To rezone the “GB(1)” to “Coastal Protection Area” (“CPA”) or “Conservation Area” (“CA”)

- (ii) F38, F42 and F47 proposed to rezone the “GB(1)” to “CPA” or “CA” to enhance protection of the natural environment;

To amend the boundary of the “GB(1)” zone

- (iii) F38 proposed to amend the boundary of the “GB(1)” zone by providing buffer zones (at least 30m on both sides of the main streams) in which no Small House and septic tank was allowed with a view to protecting the habitats; and

To amend the Notes of the “GB(1)” zone

- (iv) a number of FRs (F4, F7 to F20, F38, F45 and F47) proposed to transfer ‘Agricultural Use’ from Column 1 to Column 2 under the “GB(1)” zone with a view mainly to preventing “destroy first, build later” activities or adverse environmental impacts;

FRs opposing insufficient “V” zone

- (j) F33 to F35 opposed the proposed Amendment Item A (i.e. the rezoning of the western part of the “V” zone to “GB(1)”) or the reduction of “V” zone mainly on the following grounds:
 - (i) the reduced “V” zone was inadequate to meet the Small House demand; and
 - (ii) the reduction of “V” zone was not the right way of balancing conservation and development;
- (k) F35 proposed to expand the “V” zone in order to reserve sufficient land for Small House development;

Other views not directly related to the proposed amendments

- (l) there were other views in a number of FRs (F3, F4, F6 to F20, F38 to F45 and F47 to F51) which were not directly related to the proposed amendments, including removing ‘Eating Place’ and other polluting uses from Column 1 under the “V” zone; amending the boundaries of the “V” and “CPA” zones to widen the buffer zone from the current Spring High Tide; avoiding further Small House developments and provision of septic tanks to the north of the old village houses; re-opening the debate of the draft Hoi Ha OZP or revising the OZP due to inaccurate or misleading information presented to the Board in particular survey map, High Water Mark (HWM) and boundary of HHWMP; failures in the hearing process/procedure of the representations and comments in respect of the three draft OZPs; incorporating the Hoi Ha area into country park; and offering general comments on conservation of the Hoi Ha area;

Planning Considerations and Assessments

The FR Site and Its Surrounding Areas

- (m) the FR site (i.e. proposed Amendment Items A and B) was located to the

west of the village cluster of Hoi Ha. It was bounded by the beach and HHWMP to the north and the rocky stream of Sai Kung West Country Park to the west. The FR site was mainly occupied by patches of wetland and some young woodland developed from abandoned agricultural land. A plant species of conservation concern (*Hong Kong Pavetta* 香港大沙葉) and a considerable number of large trees, including Chinese Banyan, were found in the site;

Planning Intention

- (n) the planning intention of the “V” zone was to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development were always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses might be permitted on application to the Board;
- (o) the “GB(1)” zone was intended primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl. There was a general presumption against development within this zone. In general, only developments that were needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area; or were essential infrastructure projects with overriding public interest, might be permitted;

Land Administration

- (p) the FR site involved both government land and private lots;

Responses to Grounds of FRs and Further Representatives' Proposals

Designation of "V" and "GB(1)" zones

(F3 to F5, F7 to F20, F33 to F35, F38 to F45 and F47)

- (q) the supporting views of F1 to F20 and F42 on the proposed amendments or the reduction of "V" zone were noted;
- (r) there were two divergent views over the designation of "V" and "GB" or "GB(1)" zones, i.e. opposing excessive "V" zone and opposing insufficient "V" zone, which were the main subject of the original representations and comments that had previously been considered by the Board. Responses to the views regarding the designation of "V" and "GB(1)" zones were set out below:
 - (i) in considering the representations and comments concerning the designation of the "V" zone, the Board noted that the boundaries of the "V" zone for Hoi Ha had been drawn up having regard to the village 'environs' ('VE'), local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. The Small House demand forecast was only one of the factors taken into account in drawing up the proposed "V" zone. The Small House demand forecast was subject to variations over time and the respective District Lands Office (DLO) would verify the status of the Small House applicant at the stage of Small House grant application;
 - (ii) regarding the application of the more stringent planning control of the Tai Long Wan OZP to the Hoi Ha area, the Board agreed that each CPE should be considered on its own circumstances and characteristics;
 - (iii) the area to the west of the existing village cluster, zoned "V" and "GB" on the draft Hoi Ha OZP No. S/NE-HH/1, was bounded by

the beach and HHWMP to the north and the rocky stream of the Sai Kung West Country Park to the west. A plant species of conservation concern (i.e. Hong Kong Pavetta) and a considerable number of large trees, including Chinese Banyan, could be found in the area. According to AFCD, as compared with the woodlands to the east, south and western end of Hoi Ha, which were mature and contiguous with those inside the country park area, the woodland zoned “V” was relatively young and disturbed to a certain extent due to its proximity to the existing village;

- (iv) in order to minimise adverse impacts on the natural environment, in particular HHWMP, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted with an aim to confining Small House development at suitable locations. Based on an incremental approach and in view of the lack of infrastructural facilities, the Board decided to rezone the area to the west of the existing village cluster from “V” and “GB” to “GB(1)” (proposed Amendment Items A and B) to give added protection to the existing natural environment including the woodland, wetland, stream and HHW. Should there be a genuine need for more Small House developments, flexibility had been provided under the section 12A planning application system for the Board to consider whether to expand the “V” zone. Each application would be considered by the Board based on its individual merits taking into account the prevailing planning circumstances;
- (v) the “GB(1)” zone was intended to provide a higher degree of protection to the concerned woodland and wet agricultural land but at the same time allow flexibility for some necessary uses to cater for the needs of local villagers (e.g. ‘Burial Ground’ and ‘Rural Committee/Village Office’). Only developments that were needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area, or essential

infrastructure projects with overriding public interest might be permitted. While rebuilding of NTEH and replacement of an existing domestic structure by a NTEH were permitted, no new Small House was permitted in the “GB(1)” zone. AFCD considered that the proposed “GB(1)” zoning for the woodland and wetland was appropriate from the nature conservation perspective; and

- (vi) AFCD commented that the “GB(1)” area mainly comprised patches of wetland and some young woodland developed from abandoned agricultural land. The further representers’ proposal to rezone the area to “CA” or “CPA” was inappropriate;
- (s) subsequent to the proposed amendments, the remaining “V” zone had an area of about 1.95 ha, with about 1.02 ha of land available for accommodating 40 Small House developments, which could meet about 40% of the forecast Small House demand;
- (t) taking into account all the relevant planning considerations, the draft OZP incorporating the proposed Amendment Items A and B could strike a balance between enhancing nature conservation of the Hoi Ha area and meeting the needs of villagers for Small House development;

Adverse impacts of Small House development on surrounding environment

(F4, F5, F7 to F20, F38 to F41, F44 and F48)

- (u) the Board, in considering the representations and comments, noted that the Lands Department (LandsD), when processing Small House grant applications, would consult concerned government departments including the Environmental Protection Department (EPD), AFCD and PlanD to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. The design and construction of on-site STS systems for any development proposals/submissions needed to comply with relevant standards and

regulations, such as EPD's Practice Note for Professional Person (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". The Board was of the view that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zone would not entail unacceptable impacts on the surrounding environment;

- (v) EPD advised that provided that the STS system was built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer adequate protection to the nearby environment;
- (w) when considering the draft Hoi Ha OZP, the Board had already taken into account all relevant planning considerations, including the expert advice of the relevant government departments and public views. Relevant government departments including AFCD, the Chief Town Planner/Urban Design and Landscape CTP/UD&L) of PlanD, EPD, Drainage Services Department (DSD) and Water Supplies Department (WSD), had no objection to the "V" zone on the draft OZP;

Other views not directly related to the proposed amendments

(F3, F4, F6 to F20, F38 to F45, F47 to F51)

- (x) these views were not directly related to the proposed amendments and were similar to those views made in the original representations/comments which had already been considered by the Board during the hearing and deliberation of the representations and comments. The view related to the representation hearing process/procedure was not relevant to the proposed amendments; and

[Dr Wilton W.T. Fok returned to join the meeting at this point.]

PlanD's Views

- (y) PlanD's views on the FRs were:
 - (i) the supportive views of FRs No. F1 to F20 and F42 were noted; and
 - (ii) the remaining part of FRs No. F3 to F20 and F42, and FRs No. F33 to F35, F38 to F41, F43 to F45 and F47 to F51 were not supported.

So Lo Pun OZP

27. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in TPB Paper No. 9787:

- (a) on 27.9.2013, the draft So Lo Pun OZP No. S/NE-SLP/1 was exhibited for public inspection under section 5 of the TPO. A total of 10,748 valid representations and 3,673 valid comments were received;
- (b) after giving consideration to the representations and comments in respect of the draft OZP, the Board decided on 4.6.2014 to partially uphold 9,863 representations by rezoning two pieces of land at the north-eastern end and the south-eastern end of the "V" zone to "GB" (i.e. proposed Amendment Item A);
- (c) on 4.7.2014, the proposed amendment to the draft So Lo Pun OZP No. S/NE-SLP/1 was considered and agreed by the Board;
- (d) on 25.7.2014, the proposed amendment to the draft So Lo Pun OZP were exhibited for public inspection under section 6C(2) of the TPO. Upon expiry of the three-week exhibition period, a total of 26 FRs were received;
- (e) on 24.10.2014, the Board decided that F22 to F26, which were submitted by the original representers or commenters, were invalid and should be

treated as not having been made under the TPO. After discounting the invalid FRs, the number of valid FRs was 21 (i.e. F1 to F21);

The FRs

- (f) the 21 valid FRs were submitted by 鎖羅盆村委員會 (F21), villagers of So Lo Pun (F8 and F11) and individuals. Three FRs (F1 to F3) partly supported and partly opposed the proposed Amendment Item A, while the remaining 18 FRs (F4 to F21) opposed the proposed amendment;

Grounds of FRs and Further Representers' Proposals

FRs opposing excessive "V" zone

- (g) F1 to F3 supported the reduction in area zoned "V", but opined that it should be further reduced. They shared similar views with F4 to F7 in opposing the "V" zone which they considered as excessive. The main grounds of FRs were summarised as follows:
- (i) it was not clear whether the size of the "V" zone under the proposed Amendment Item A was based on proven genuine need for Small Houses (F2, F4 to F7);
 - (ii) the planning intention of the Tai Long Wan OZP to primarily conserve the scenic and unspoiled natural environment (in that only the existing village areas were covered under the "V" zones) was applicable to the So Lo Pun area. The more stringent planning control in the Tai Long Wan OZP should be adopted (F2 to F7);
 - (iii) the current sewage treatment arrangements in villages would not be able to protect the water bodies in and surrounding the So Lo Pun area from pollution caused by human activities (F2, F3 and F5 to F7);

- (iv) there was a lack of assessment on the cumulative impacts (such as ecology, landscape and water pollution) of Small House developments on the CPE (F2 and F4) in consideration of its carrying capacity (F4); and
- (v) as Small House developments might be permitted in the “GB” zone, it prevented appropriate long-term conservation of the existing state of the land and was contrary to the general planning intention for CPEs (F4). The “GB” zone did not provide adequate control to protect the woodland in So Lo Pun which provided habitats for many species of conservation concern and its naturalness was considered the highest among those in Hoi Ha, So Lo Pun and Pak Lap (F2 and F5 to F7);
- (h) the proposals of the further representers were:
 - (i) the area of the “V” zone should be reduced substantially (F1), or be confined to the existing village settlements; and
 - (ii) the “GB” should be rezoned to “GB(1)” or “CA” (F2 to F7);

FRs opposing insufficient “V” zone

- (i) F8 to F21 held similar views opposing the insufficiency of “V” zone mainly on the following grounds:
 - (i) the area of “V” zone was insufficient to meet the Small House demand (F10, F14, F19 and F21), or for provision of ancillary public facilities for the village (F8, F11 to F13 and F20);
 - (ii) the zonings on the draft OZP were heavily biased towards the ecological value of the area over the social and economic value of the land and the rights of landowners (F8, F9, F11 and F16 to F18). Indigenous villagers were eligible and had the right to build Small

Houses, and the draft OZP should not be used to deter them from building Small Houses (F14 and F19), and their right was protected by the Basic Law (F21); and

- (iii) private land should not be zoned “GB” as it would limit the land uses permitted (F15 and F21);
- (j) the proposals of the further representers were:
 - (i) F8, F9, F11 to F13, F19 and F20 proposed to expand the “V” zone to cover an area of at least 4.12 ha (i.e. the area of the original “V” zone on draft OZP No. S/NE-SLP/1) or in proportion to the Small House demand; and
 - (ii) F8 to F9, F11 to F13, F15 to F18, F20 and F21 considered that private land should be zoned for village type development or agricultural use whilst Government land as “CA” or “GB”;

Other views not directly related to the proposed amendments

- (k) there were other views in a number of FRs (F1, F2, F4 to F7 and F21) which were not directly related to the proposed Amendment Item A, including incorporating So Lo Pun into country park (F1); amending the Notes of the draft OZP for more stringent planning control (F2, F4 to F7); failures in the hearing process/procedure of the representations and comments in respect of the three draft OZPs (F4); and objection to the “CA” zone (F21);

Planning Considerations and Assessments

The FR Site and Its Surrounding Areas

- (l) the FR site (i.e. proposed Amendment Item A) comprised two separate pieces of land adjacent to the existing village cluster to its north-eastern

end and south-western end in So Lo Pun. With an area of 1.64 ha, it consisted of fallow agricultural land covered by grass and shrubs interspersed with trees. Its south-western part was about 20m distance away from the upper section of the natural stream flowing across the So Lo Pun area. Both pieces of land were surrounded by “V”, “GB” and “CA” zones which mainly covered So Lo Pun Village, vegetated hillslopes, woodlands and the wetland system in the area;

- (m) the “GB” zone mainly included the vegetated hillslopes which formed a continuous stretch of well-established natural woodlands with the adjoining Plover Cove Country Park. It was generally covered by natural vegetation, woodland, hillside shrubland and grassland, fallow agricultural land and small natural streams, and provided a buffer between village type development and conservation areas or the country park. The “V” zone mainly comprised the existing village settlements and the adjoining area suitable for Small House development;

Planning Intention

- (n) the planning intention of the “GB” zone was primarily for defining the limits of urban and sub-urban development areas by natural features and containing urban sprawl as well as providing passive recreational outlets. There was a general presumption against development within this zone;
- (o) the planning intention of the “V” zone was to designate both existing recognized village and area of land considered suitable for village expansion. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development were always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses might be permitted

on application to the Board;

Land Administration

- (p) the FR site involved both government land and private lots;

Responses to Grounds of FRs and Further Representers' Proposals

Designation of "V" and "GB" Zones

(F1 to F7, F8 to F14, F19 to F21)

- (q) the supporting views of F1 to F3 on the proposed Amendment Item A in reducing the area of the "V" zone were noted;
- (r) there were two divergent views over the designation of "V" and "GB" zones, i.e. opposing the excessive "V" zone and opposing the insufficient "V" zone, which were the major subjects of the original representations and comments that had previously been considered by the Board. Responses to the views regarding the designation of "V" and "GB" zones were set out below:
- (i) in considering the representations and comments concerning the designation of the "V" zone, the Board noted that the boundaries of the "V" zone for So Lo Pun had been drawn up having regard to the 'VE', local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. The Small House demand forecast was only one of the factors taken into account in drawing up the proposed "V" zone. The Small House demand forecast was subject to variations over time and the respective DLO would verify the status of the Small House applicant at the stage of Small House grant application;
- (ii) regarding the application of the more stringent planning control of

the Tai Long Wan OZP to the So Lo Pun area, the Board agreed that each CPE should be considered on its own circumstances and characteristics; and

- (iii) in order to minimise adverse impacts on the natural environment, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted with an aim to confining Small House development at suitable locations. Based on an incremental approach and in view of the existing zero population and the lack of infrastructural facilities, the Board decided to rezone the two pieces of fallow agricultural land at the northeastern end and southwestern end of the “V” zone to “GB” (proposed Amendment Item A);
- (s) subsequent to the proposed amendment, the area of the “V” zone was reduced from 4.12 ha to 2.48 ha, with about 1.72 ha of land available for accommodating 68 Small House developments, which would meet about 25% of the forecast Small House demand. The estimation of available land had taken into account the need for the necessary supporting facilities;
- (t) AFCD considered that the “GB” zoning for the two pieces of land at the northeastern and southwestern ends of the “V” zone was appropriate. CTP/UD&L, PlanD supported the proposed amendment;
- (u) the “GB” zone would not only provide a buffer between the village development and the “CA” (which covered the wetland system of ecological importance), but would also protect the existing green areas in this CPE. That would allow flexibility for suitable development to meet community need or for Small House development adjoining the existing village cluster, if any in future, subject to scrutiny of the Board under the planning application system;
- (v) there was neither strong justification nor change in planning

circumstances for a departure from the Board's previous decision. Taking into account all the relevant planning considerations, expert advice from concerned government departments and views from relevant stakeholders (including both the villagers and green concern groups, as well as the general public), the draft OZP incorporating the proposed Amendment Item A could strike a balance between enhancing nature conservation of the So Lo Pun area and meeting the needs of villagers for Small House development;

Adverse impacts of Small House development on surrounding environment

(F2 to F7)

- (w) the Board, in considering these representations and comments, noted that LandsD, when processing Small House grant applications, would consult concerned government departments including the EPD, AFCD and PlanD to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. The design and construction of on-site STS systems for any development proposals/submissions needed to comply with relevant standards and regulations, such as EPD's ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". The Board was of the view that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zone would not entail unacceptable impacts on the surrounding environment;
- (x) EPD advised that provided that the STS system was built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer adequate protection to the nearby environment;
- (y) when considering the draft So Lo Pun OZP, the Board had already taken into account all relevant planning considerations, including the expert advice of the relevant government departments and public views.

Relevant government departments, including AFCD, CTP/UD&L of PlanD, EPD, DSD and WSD, had no objection to the “V” zone on the draft OZP;

Adequacy of the “GB” Zone for Conservation (F2 and F4 to F7)

Proposal to Rezone the Proposed “GB” to “GB(1)” or “CA” (F2 to F7)

- (z) the “GB” zone was a conservation zone, which was in line with the general planning intention of the So Lo Pun area to protect its high conservation and landscape value as well as to consolidate village to avoid undesirable disturbances to the natural environment;
- (aa) there was a general presumption against development within the “GB” zone. Any Small House development required planning permission from the Board, and each case would be considered based on its individual merits. Furthermore, any diversion of streams, filling of land/pond or excavation of land which might cause adverse impacts on the natural environment required planning permission from the Board;
- (bb) the FR site consisted of fallow agricultural land covered by grass and shrubs interspersed with trees. Its southwestern part was about 20m from the upper section of the natural stream flowing across the So Lo Pun area. The “GB” zoning for the FR site was supported by AFCD and CTP/UD&L of PlanD;
- (cc) according to AFCD, the woodlands in So Lo Pun should be relatively young secondary woodlands. They were not as ecologically important as fung shui woodlands or mature secondary woodlands in the area. The three protected plant species found therein as quoted by the relevant FRs were rather widespread in Hong Kong. There was no adequate evidence to substantiate the highest naturalness of the woodlands in So Lo Pun among those in the Hoi Ha, So Lo Pun and Pak Lap areas;

Landowners' Interests and Rights

(F8, F9, F11, F14, F16 to F19 and F21)

- (dd) all the building lots were covered by “V” zone, in which ‘House (NTEH only)’ was always permitted. As for agricultural lots, ‘Agricultural Use’ in general was always permitted on land within the boundary of the draft OZP, though subject to different control regarding the diversion of streams, filling of land/pond or excavation of land within individual zones. There was no deprivation of landowners’ rights in using their building lots and agricultural lots;
- (ee) the Board, in considering the representations and comments, considered that the indigenous villagers’ right to build Small Houses should be respected and there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in So Lo Pun. A “V” zone with an area of about 2.48 ha had been designated for village development;
- (ff) as regard the concern on the protection of the indigenous villagers’ rights under the Basic Law, the legal advice was that the amended draft OZP would not affect any landowner’s right to transfer or assign his/her interest in land nor would it leave the land concerned without any meaningful use or any economically viable use, and hence there was no ‘deprivation’ of the landowner’s property right. Furthermore, the zoning restrictions pursued the legitimate aim of better planning control, and the land concerned could be put to ‘always permitted uses’ and other uses as long as planning approval was obtained. The amendment was not inconsistent with Articles 6 and 105 of the Basic Law (BL 6 and 105). According to the legal advice, there was no concrete evidence on how Small Houses development would be affected in the area. In any event, even assuming there was a right to build Small Houses by the indigenous villagers, as long as the right had already been qualified by the TPO by the time the Basic Law came into force, subjecting such a right to the planning controls that might be lawfully imposed pursuant to the TPO by

way of the amended draft OZP would not be inconsistent with BL 40;

Private Land should be zoned for Village Type Development or Agricultural Use and/or Government Land should be zoned as “CA” or “GB”

(F8 to F9, F11 to F13 and F15 to F18, F20 and F21)

(gg) the land use zonings on the draft OZP including “V” and “GB” were considered appropriate taking into all the relevant planning considerations. Landownership should not be the only factor for formulating the land use zones. ‘Agricultural Use’ in general was always permitted on land within the boundary of the draft OZP;

Other views not directly related to the proposed amendment

(F1, F2, F4 to F7 and F21)

(hh) these views were not directly related to the proposed Amendment Item A and were similar to those views made in the original representations/comments, which had been considered by the Board during the hearing and deliberation of the representations and comments. The view related to the representation hearing process/procedure was not relevant to the proposed Amendment Item A; and

PlanD’s Views

(ii) PlanD’s views on the FRs were:

- (i) the supportive views of FRs No. F1 to F3 were noted; and
- (ii) the remaining part of FRs No. F1 to F3, and FRs No. F4 to F21 were not supported.

Pak Lap OZP

28. With the aid of a Powerpoint presentation, Mrs Alice K.F. Mak, STP/SK, made the

following main points as detailed in TPB Paper No. 9788:

- (a) on 27.9.2013, the draft Pak Lap OZP No. S/SK-PL/1 was exhibited for public inspection under section 5 of the TPO. A total of 10,665 valid representations and 3,665 valid comments were received;
- (b) after giving consideration to the representations and comments in respect of the draft OZP, the Board decided on 4.6.2014 to partially uphold 9,962 representations by rezoning a section of the existing stream in Pak Lap and the area to its east from “V” to “AGR” (i.e. Proposed Amendment Item A);
- (c) on 4.7.2014, the proposed amendment to the draft Pak Lap OZP No. S/SK-PL/1 was considered and agreed by the Board;
- (d) on 25.7.2014, the proposed amendment to the draft Pak Lap OZP were exhibited for public inspection under section 6C(2) of the TPO. Upon expiry of the three-week exhibition period, a total of 12 FRs were received;
- (e) on 24.10.2014, the Board decided that F12, which was submitted by one of the original representers, was invalid and should be treated as not having been made under the TPO. After discounting the invalid FR, the number of valid FRs was 11 (i.e. F1 to F11);

The FRs

- (f) the 11 valid FRs were submitted by local villagers and individuals. Three FRs (F1 to F3) partly supported and partly opposed the proposed Amendment Item A, while eight FRs (F4 to F11) opposed the proposed amendment;

Grounds of FRs and Further Representers' Proposals

FRs opposing excessive "V" zone and/or expressing concerns on the environmental issues of the area

- (g) F1 to F3 supported the reduction in area zoned "V", but opined that it should be further reduced. They shared similar views with F4 to F7 in opposing the "V" zone which they considered as excessive. The main grounds of FRs were summarised as follows:
- (i) it was not clear whether the size of the "V" zone under the proposed Amendment Item A was based on proven genuine need for Small Houses (F2, F4 to F7);
 - (ii) the planning intention of the Tai Long Wan OZP to primarily conserve the scenic and unspoiled natural environment (in that only the existing village areas were covered under the "V" zones) was applicable to the Pak Lap area. The more stringent planning control in the Tai Long Wan OZP should be adopted (F2 to F7);
 - (iii) the current sewage treatment arrangements in villages would not be able to protect the water bodies in and surrounding the Pak Lap area from pollution caused by human activities (F2, F3 and F5 to F7);
and
 - (iv) there was a lack of assessment on the cumulative impacts (such as ecology, landscape and water pollution) of Small House developments on the CPE (F2 and F4) in consideration of its carrying capacity (F4);
- (h) the proposals of the further representers were:
- (i) the area of the "V" zone should be reduced substantially (F3 to F5 and F7) or be confined to the existing village settlements (F2 to

F7);

- (ii) to rezone the area along the stream (at least 10m on either side) and/or the grassland/fallow agricultural land to “CA” or “GB(1)” (F2 to F7);
- (iii) to rezone the area with water fern to “GB(1)” or “CA” (F2, F5 to F7); and
- (iv) to amend the Notes of the draft OZP for more stringent planning control (F2, F4 to F7);

FRs opposing insufficient “V” zone

- (i) F8 to F11 held similar views of opposing the insufficiency of “V” zone mainly on the following grounds:
 - (i) the area of “V” zone was insufficient to meet the Small House demand (F8 to F11), or for the provision of ancillary public facilities for the village (F10);
 - (ii) the planning intention and assessment criteria of the draft OZP were heavily biased towards the ecological value of the area, without balancing that against the needs for Small House development and the long term development of Pak Lap (F10); and
 - (iii) indigenous villagers were eligible and had the right to build Small Houses. Reduction in the “V” zone area would deprive them of their right. The accumulative effect arising from the significant reduction of “V” zones in Pak Lap and other OZPs should be noted (F8);
- (j) the proposals of the further representers were:

- (i) F10 proposed to restore the “V” zone to the same area as shown on the draft Pak Lap OZP No. S/SK-PL/1 gazetted on 27.9.2013, i.e. 2.37 ha; and
- (ii) F8 to F9 and F11 did not propose any amendment;

Other views not directly related to the proposed amendments

- (k) there were other views and proposed amendments not directly related to the proposed Amendment Item A, including incorporating Pak Lap into country park (F1); amending the Notes of the draft OZP for more stringent planning control; offering general comments on environmental conservation of the area (F2, F4 to F7); and failures in the hearing process/procedure of the representations and comments in respect of the three draft OZPs (F4);

Planning Considerations and Assessments

The FR Site and Its Surrounding Areas

- (l) the FR site (i.e. proposed Amendment Item A) comprised land contiguous to the existing village cluster to its eastern end in Pak Lap. With an area of 1.39 ha, it consisted of an existing stream and fallow agricultural land covered by grass and shrubs, and was located in the central part of Pak Lap;

Planning Intention

- (m) the planning intention of the “AGR” zone was intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes;

- (n) the planning intention of the “V” zone was to designate both existing recognized village and area of land considered suitable for village expansion. The “V” zone mainly comprised the existing village settlements and the adjoining area reserved for Small House development;

Land Administration

- (o) the FR site involved both government land and private lots;

[Ms Bernadette H.H. Linn arrived to join the meeting at this point.]

Responses to Grounds of FRs and Further Representatives’ Proposals

Designation of “V” Zone (F1 to F11)

- (p) the supporting views of F1 to F3 on the proposed Amendment Item A in reducing the area of the “V” zone were noted;
- (q) there were two divergent views over the designation of “V” zones i.e. opposing excessive “V” zone and opposing insufficient “V” zone, which were the major subjects of the original representations and comments that had previously been considered by the Board. Responses to the views regarding the designation of “V” zone were set out below:
 - (i) in considering the representations and comments concerning the designation of the “V” zone, the Board noted that the boundaries of the “V” zone for Pak Lap had been drawn up having regard to the ‘VE’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. The Small House demand forecast was only one of the factors taken into account in drawing up the proposed “V” zone. The Small House demand forecast was subject to variations over time and the respective DLO would verify

the status of the Small House applicant at the stage of Small House grant application;

- (ii) regarding the application of the more stringent planning control of the Tai Long Wan OZP into the Pak Lap area, the Board agreed that each CPE should be considered on its own circumstances and characteristics; and
- (iii) in order to minimise adverse impacts on the natural environment, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted with an aim to confining Small House development at suitable locations. Based on an incremental approach and in view of the lack of infrastructural facilities, the Board decided to rezone a section of the existing stream in Pak Lap and the area to its east from “V” to “AGR”;
- (r) subsequent to the proposed amendment, the area of the “V” zone was reduced from 2.37 ha to 0.98 ha, with about 0.41 ha of land available for accommodating 18 Small House developments, which could meet about 23% of the forecast Small House demand. The estimation of available land had taken into account the need for the necessary supporting facilities;
- (s) both AFCD and CTP/UD&L of PlanD considered it reasonable to rezone the FR site from “V” zone to “AGR” to maintain the nature of this area as the site was grassland/fallow agricultural land. According to AFCD, the fallow agricultural land was considered with good potential for rehabilitation into agricultural use and hence the “AGR” zoning was appropriate;
- (t) there was neither strong justification nor change in planning circumstances for a departure from the Board’s previous decision. Taking into account all the relevant planning considerations, expert

advice from concerned government departments and views from relevant stakeholders (including both the villagers and green/concern groups, as well as the general public), the draft OZP incorporating the proposed Amendment Item A could strike a balance between enhancing nature conservation of the Pak Lap area and meeting the needs of villagers for Small House development;

Adverse impacts of Small House development on surrounding environment

(F2 to F7)

- (u) the Board, in considering these representations and comments, noted that LandsD, when processing Small House grant applications, would consult concerned government departments including the EPD, AFCD and PlanD to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. The design and construction of on-site STS systems for any development proposals/submissions needed to comply with relevant standards and regulations, such as EPD's ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". The Board was of the view that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zone would not cause unacceptable impacts on the surrounding environment;
- (v) EPD advised that provided that the STS system was built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer adequate protection to the nearby environment;
- (w) when considering the draft Pak Lap OZP, the Board had already taken into account all relevant planning considerations, including the expert advice of the relevant government departments and public views. Relevant government departments, including AFCD, CTP/UD&L of PlanD, EPD, DSD and WSD, had no objection to the "V" zone on the

draft OZP;

Proposal to Rezone the Proposed “AGR” to “GB(1)” or “CA” (F2 to F7)

- (x) the area zoned “AGR” was once the subject of excavation works in 2009. The FR site consisted of fallow agricultural land covered by grass and shrubs. The District Lands Officer/Sai Kung advised that the site was covered by old schedule lot for agricultural purpose which was shown as “cultivation” or “fallow” on the Lease; and AFCD advised that the site had good potential for rehabilitation into agricultural use and the area should be designated as “AGR” to retain for agricultural purpose;
- (y) to ensure that activities within the “AGR” zone would not result in adverse environmental impact, any diversion of stream, and filling of land/pond within the “AGR” zone was subject to the Board’s approval. The “AGR” zone in Pak Lap was prohibited from livestock rearing activities under the Waste Disposal Ordinance. Therefore, no major organic pollution on the stream and Pak Lap Wan caused by non-livestock rearing farming activities was anticipated. Both AFCD and CTP/UD&L of PlanD considered the “AGR” zoning for the FR site appropriate from the agricultural and landscape planning perspectives. AFCD had reservation on rezoning the FR site to “CA” in which some agricultural activities such as plant nursery would be restricted;
- (z) while water ferns were found scattered in the wet abandoned agricultural land on the eastern part of Pak Lap, AFCD advised that the colony was small and its occurrence was subject to site conditions. The proposed “CA” zone was not justified;

Other views not directly related to the proposed amendment (F1 to F7)

- (aa) these views were not directly related to the proposed Amendment Item A and were similar to those views made in the original representations/comments, which had been considered by the Board

during the hearing and deliberation of the representations and comments. The view related to the representation hearing process/procedure was not relevant to the proposed Amendment Item A; and

PlanD's Views

- (bb) PlanD's views on the FRs were:
- (i) the supportive views of FRs No. F1 to F3 were noted; and
 - (ii) the remaining part of FRs No. F1 to F3, and FRs No. F4 to F11 were not supported.

[Professor Eddie C.M. Hui left the meeting temporarily at this point.]

29. The Chairman said that to ensure the smooth and efficient conduct of the meeting, the speakers should focus on the proposed amendments and the FRs, and should avoid reading out or repeating statements contained in the representations/comments/FRs already submitted, as the written submissions had already been provided to Members for their consideration. The Chairman also said that all attendees were expected to show courtesy to one other by allowing them to make their presentations without being disturbed or interrupted by other people talking at the same time. He then invited the further representers and their representatives to elaborate on their FRs.

HH-F39 /SLP-F5 /PL-F5 - Tony Nip

HH-F40/SLP-F6 /PL-F6 - Chiu Sein Tuck

HH-F41/SLP-F7/PL-F7 - Woo Ming Chuan

HH/SLP/PL- R4662 - Tan Kit Sun

HH/SLP/PL- R10585 – Fauna

HH-R10883 /SLP-R10821 /PL-R10739 - Kadoorie Farm & Botanic Garden (KFBG)

HH/SLP/PL- C1787 - Nikki Suen

30. Mr Tony Nip said that he was representing two other further representers, i.e. Dr Chiu Sein Tuck (HH-F40/SLP-F6/PL-F6) and Ms Woo Ming Chuan (HH-F41/SLP-F7/PL-F7),

who were also present at this meeting, as well as KFBBG and those representatives and commenters who authorised KFBBG, to make an oral submission. He requested for a total presentation time of 45 minutes. His request was agreed by the Board.

31. With the aid of a Powerpoint presentation, Mr Tony Nip made the following main points:

- (a) the genuine need for Small Houses was in doubt as large pieces of land in Hoi Ha and Pak Lap were under company ownership according to the records in the Land Registry. Local villagers had also expressed to the media the intention to develop So Lo Pun into a luxury residential area and to cooperate with developer for development of Small Houses in Pak Lap;
- (b) the “V” zone in Hoi Ha comprised a piece of woodland in its west while that in So Lo Pun was in a greenery setting which could not be considered as suitable land for Small House developments;
- (c) on water pollution, in response to the views of EPD at the 1057th TPB meeting held on 20.5.2014, it was considered that there was no statutory requirement for the submission of a certified STS proposal by the Authorised Person in respect of the Small House development to be checked and approved by EPD. There were doubts if any Small House applications had been rejected due to non-compliance with the percolation test requirement;
- (d) the government when replying to the Legislative Council (LegCo) in 2005 admitted that the lack of maintenance of private STS systems had caused the water quality of some rivers and streams to remain unsatisfactory. The Government’s proposals for sewerage projects in rural areas also repeatedly stated that STS systems were not reliable;

[Mr Patrick H.T. Lau left the meeting at this point.]

- (e) in response to the minutes of the 1057th TPB meeting that maintenance works of the STS system was not very labour-intensive and would not

necessarily require vehicular access, it should be noted that vehicular access for maintenance vehicles was required according to the experience of KFBG and it was doubtful if any contractor would provide service to clean the STS system manually and to transport the sludge away using vessels;

- (f) 'Eating Place', which could be a restaurant, was always permitted on the ground floor of a Small House, and EPD admitted that the STS systems for restaurants would require regular maintenance. He was concerned how the STS system for the restaurants in those CPEs without road access could be maintained properly. Apart from the problem of STS systems, illegal discharge of polluted water was a source of water pollution in rural village areas. The enforcement action taken by EPD against illegal discharge in rural village areas had low success rate. As pointed out by the then Secretary for the Environment, Transport and Works in an official record of proceedings of LegCo dated 26.1.2005, "*it was very difficult to catch the culprits red-handed and collect evidence on spot, which results in prosecution difficulties*";
- (g) in response to the minutes of the 1057th TPB meeting regarding the issue of a food business licence by the Food and Environmental Hygiene Department (FEHD), he pointed out that FEHD was not the authority for enforcing the Water Pollution Control Ordinance. This was confirmed by his recent complaint to FEHD against water pollution potentially caused by a restaurant;
- (h) in response to the minutes of the 1075th TPB meeting, based on photographs taken recently, it was doubtful whether the restaurants in villages were serving the need of local villagers. Despite that the water quality of the main body of the HHWMP was found to be excellent, the main concern should be that of the coastal areas where visitors would most frequently come into contact with water;
- (i) relatively high levels of *E.coli* were commonly found in areas served by public sewerage such as Victoria Harbour and Tolo Harbour as there were

still illegal discharges of wastewater directly into the harbour and illegal connection of sewerage with stormwater drains, as well as possible pollution from STS systems of Small Houses along Shing Mun River, Lam Tsuen River and also the coast along Tolo Harbour. All these revealed the enforcement problem of EPD; and

- (j) in gist, the problem of polluted water discharge from the village could not be resolved or the control was not sufficient. The more development there was bringing in more population/visitors, the more serious the pollution would be. The community should not live with the pollution as it was at the expense of the natural environment. Professor Brian Morton in his article in the Marine Pollution Bulletin issued in August 2014 also expressed the view that it was a land and marine coastline conservation disaster to allow Small House developments.

32. With the aid of a Powerpoint presentation, Mr Tony Nip continued to make the following main points regarding the three OZPs:

- (a) an inconsistent approach had been adopted by PlanD in the plan-making process. For the Tai Long Wan OZP, the “V” zone was restricted to existing village settlements and the other areas were zoned “CA” or “Site of Special Scientific Interest (“SSSI”). The minutes of the 1057th TPB meeting stated that a restrictive approach to confine the “V” zones to the existing village houses was necessary, as there was unique planning background and characteristics, well-preserved historic villages and a site of archaeological significance in Tai Long Wan. However, the planning intention of Tai Long Wan OZP, as stated in the Explanatory Statement of the OZP, was primarily to conserve the scenic and unspoiled natural environment by protecting features of ecological significance, the natural landscape and the rural character. The natural features should be protected from encroachment by development or incompatible uses. The conservation of the historic and archaeological value of the area was mentioned in the penultimate sentence of the paragraph. While areas with well-preserved historic villages and a site of archaeological significance in

Tai Long Wan were zoned “CA” or “SSSI”, the archaeological site in Hoi Ha was zoned “V”;

- (b) the woodlands in So Lo Pun had the highest ecological value in terms of number of plant species (171 plant species as compared to 121 in Pak Lap and 130 in Hoi Ha), protected plant species (three species as compared to one in Pak Lap and a few in Hoi Ha) and rare wild mammal species (three species as compared to one in Hoi Ha and nil in Pak Lap), but were zoned “GB” while the woodlands in Hoi Ha and Pak Lap were designated with the more restrictive “CA” or “GB(1)” zones;
- (c) the ‘incremental approach’, as stated in the minutes of the 1057th TPB meeting, had not been adopted in So Lo Pun. The “V” zone in So Lo Pun would allow the largest increase in population (from zero to 460 persons) and new Small House developments (68 houses) comparing to Hoi Ha (from 110 to 430 persons and 40 houses) and Pak Lap (from 50 to 120 and 18 houses). A real incremental approach, similar to the Tai Long Wan OZP, should confine the “V” zone to the existing village settlements;
- (d) for the Pak Lap OZP, the “AGR” zone would not protect the natural environment as the success rate for obtaining planning approval for development in the “AGR” zone in 2012 to 2013 was high (65%). In response to PlanD’s views stated in the TPB Paper No. 9798 that buffer zones would only be considered for rivers and streams which were designated as an Ecologically Important Stream (EIS) or SSSI, he pointed out that buffer zones were designated as “GB” for So Lo Pun and To Kwa Peng and as “GB(1)” zone for Hoi Ha even though the rivers and streams were not designated as an EIS or SSSI. Buffer zone for Pak Lap riparian area was even more important as the stream flew into the coastal zone of Pak Lap Wan which had a very high ecological value similar to the marine park; and
- (e) in conclusion, it was proposed that the “V” zone be confined to the existing developments and that the remaining “V” zone be rezoned to “GB” or

“GB(1)” for Hoi Ha OZP; the “GB” along the stream be rezoned to “GB(1)” or “CA” for Pak Lap OZP; and the “GB” be rezoned to “CA” for So Lo Pun OZP.

[Total speaking time of Mr Tony Nip: 25 minutes]

HH-F47- Amy Newberry

HH-R10752 - David Newbery

HH-R10786 - John Mackay

33. Mr David Newbery (HH-R10752 and representative of HH-R10786) said that since the contents of his presentation were essential for better understanding of the presentation of Professor Gordon Maxwell (representative of HH-F47), he requested to make his oral submission together with Professor Maxwell with a total presentation time of 20 minutes. His request was agreed by the Board.

34. With the aid of a Powerpoint presentation, Mr David Newbery made the following main points:

- (a) he was a resident of Hoi Ha for 19 years and also the secretary of Friends of Hoi Ha;
- (b) there were deficiencies in TPB Paper No. 9786 on Hoi Ha OZP, in particular on the mappings of the coastline and streams;
- (c) for the mapping of coastline, there were two belts of mangroves growing over the beach at Hoi Ha located partly outside the HHWMP. The TPB Paper stated that the depth of the “CPA” zone between the village wall and the marine park boundary was about 35m. In fact, there was only a 9m effective buffer zone between the village wall and the inner boundary of the mangroves belt overgrown on the beach. A 9m buffer zone was not sufficient and the old village should be included within the “CPA” zone to ensure a meaningful buffer zone between the “V” zone and the marine environment. Although the “CPA” zone would not stop all building

activities, it could ensure that the building works would go through the planning permission mechanism;

- (d) on mapping of streams, the TPB Paper only indicated one stream in the “V” zone or “GB(1)” zone. There was no stream marked on private land as the internal policy of the Survey and Mapping Office (SMO) was not to indicate information on streams on private land to the public. The streams could be seen if the base map was in 1:500 scale, but not on 1:1000 scale used in the TPB Paper. Based on his survey, there were a number of aboveground and underground streams flowing into a marsh land in the area. These streams had to be accurately plotted on maps of LandsD to ensure that building and agricultural activities would not divert streams or fill the ponds;

- (e) on agricultural activities in “GB(1)” and “CPA” zones, he had a series of correspondences with AFCD and considered that AFCD had totally ignored the impact of silt runoff (which was harmful to coral life), and fertilizer runoff (which was harmful to marine life) from agricultural activities. The Pesticides Ordinance covered only manufacturing and sale of pesticides, and there was no statutory control over the use of pesticides. Many chemicals on the allowed list were highly toxic to marine life. For instance, the Chlorothalonil and Chlopyrifos were used by farmers in Hong Kong, and as indicated by the environmental agency in the United States or the United Kingdom (UK), these chemicals were highly toxic even at very low levels. The farmlands at Hoi Ha were within 5m of the sea and if these chemicals were used on this piece of land, excess chemical would definitely reach the sea. AFCD could not measure pollutants in minute quantities to accuracy and could not justify the statement that the use of these chemical would not cause damage to the marine life of HHW. As such, agricultural use had to be transferred to Column 2 of the Notes so that agricultural activities could be controlled to ensure that HHW was not polluted by silt, fertiliser and pesticide runoff;

- (f) on the sewage issue, DEP did not apply the law (paragraphs 4.4.3 and 9.1.1 of their Technical Memorandum) in relation to the 100m clearance

requirement between a STS system and the coastal water SSSI for HHW, and did not ask for percolation tests before issuing licence for the STS systems. EPD and LandsD should have required these tests in accordance with ProPECC 5/93 since 1993 but it appeared that they had not done so. The minutes of the Board meeting on 20.5.2014 stated that since Small House developments within the “V” zone did not require planning permission, the percolation test results were not subject to scrutiny by the Board, and the justifications for that practice was doubtful; and

- (g) at Pak Tam Chung, three old houses within the “V” zone were recently demolished and rebuilt without going through any approval process and the STS systems were built without inspection and percolation test. According to DLO/Sai Kung, there was an internal policy that if the as-built STS systems were located beyond 30m from streams, springs, wells or beaches, they would not be required to be built in accordance with EPD’s ProPECC 5/93. As EPD and LandsD could not be trusted upon in checking the carrying out of percolation tests or the siting of STS system in accordance with the law, the land use zoning control should come into play. The minutes of the Board meeting on 20.5.2014 stated that as the “V” zone boundary had been aligned with the “CPA” zone, very few, if not none, new Small Houses would be built at the coastline of Hoi Ha. This totally ignored the fact that up to nine houses could be rebuilt within 10m of the beach at the front of the village without any need to go through the planning process due to the misleading maps presented to the Board. As such, he requested that the old villages be incorporated within the “CPA” zone to ensure that the houses and septic tanks were subject to proper planning control to safeguard HHW.

35. With the aid of a Powerpoint presentation, Professor Gordon Maxwell made the following main points:

- (a) he had been involved in the research or leading a group of students in researching Hoi Ha since 1979 and considered the area was geographically important. He had also studied mangrove ecosystems in Asian Pacific for

40 years;

- (b) there were mangrove areas on the beach which was an intertidal zone and technically a part of the HHWMP. His research paper on Hong Kong Geology published in 2000 described the episodic nature of the intertidal zone. Plan FH-4 on 'Existing Physical Features' only exhibited partly the mangrove area and the mangrove in fact also extended to the belt shown as beaches. He, his students and others had conducted in-depth research in this mangrove belt and found a lot of mangrove species such as *Aegiceras*, *Exoecaria*, *Hibiscus*, *Kandelia*, *Brugulera*, *Avicennia*, *Clerodendrum*, *Cerbera* and *Pandanus*. This biogeography mapping was important. SMO stated that they would plot mangrove area on map if advised by AFCD. However, AFCD refused to visit Hoi Ha and verify the existence of mangrove; and
- (c) the paper to be published by Mr David Newbury and him outlined in detail the coastal ecology, including the intertidal zone, of the area and confirmed the existence of at least eight species of mangroves, five of which were often described as 'true mangroves' and three as 'associate mangroves', along the coast in this ecologically important part of HHWMP. These mangroves were growing on what was clearly intertidal sandy beach and were therefore an integral part of the marine environment.

[Total speaking time of Mr David Newbury and Professor Gordon Maxwell: 22 minutes]

[Dr W.K. Yau and Mr Laurence L.J. Li arrived to join the meeting at this point.]

HH-F48 - Cynthia Yau

36. With the aid of a Powerpoint presentation, Dr Cynthia Yau made the following main points:

- (a) she was used to doing research on the coral community of Hong Kong in the University of Hong Kong (HKU). She was amazed by the lack of response

on the protection of the marine environment of HHW. The land and sea were interconnected in the natural environment, and what happened on the land would affect the sea. HHW was rich in fishes due to its good water quality, and the village developments in the “V” zone would potentially affect the water quality of HHW;

[Professor S.C. Wong left the meeting temporarily at this point.]

- (b) HHWMP was designated in 1996. Coral communities were best developed in HHW with the highest percentage cover and coral diversity (64 species recorded which was second to Ping Chau). The corals were ecosystem engineers which built the framework of the habitat on which many other marine species depended on as food and shelter. HHW was therefore home to a very rich diversity of marine life. People were attracted to HHW for water recreation activities because of the wealth of marine life which included the beautiful Fan worm, starfish, urchin and shrimps as well as stony coral and soft coral such as red and black corals which were found in deep sea rather than the shallow sub-tidal zone in HHW;

[Ms Julia M.K. Lau returned to the join the meeting at this point.]

- (c) maintaining good water quality was vital to a healthy marine environment. Controlling the nutrient level of the waters was important. Sewage from village had high concentration of nutrients (Nitrogen and Phosphorus) and the chemicals (detergents, fertilizers and pesticides) from the grey water and discharge of farmland were harmful to the coral. HHW was also the nursery ground of millions of juvenile fishes which were an integral part of the marine food web. The large commercial fishes were fed on these juvenile fishes;

[Mr Frankie W.C. Yeung left the meeting at this point.]

- (d) there was strong connectivity between land and sea via the estuary and seasonal streams as runoff from rainfall. Development on land would

affect the marine environment. At present, even without the 40 new Small Houses, rubbish was accumulated in the corner of HHW;

- (e) using STS system for the new houses development was not adequate for the treatment of sewage and grey water. Communal village sewage treatment plant should be considered for Hoi Ha as a pilot project. The buffer zone would not be effective as there was a sandy beach and the effluent from village would not be assimilated before reaching the waters. The problem of the surface runoff during construction, which would increase sediment load in HHW and adversely affect stony corals, had not been addressed;

[Professor S.C. Wong returned to join the meeting at this point.]

- (f) stringent requirements for effluent discharge from village houses were needed to ensure that any development would not harm the marine ecology. Proactive management and conservation were essential. HHWMP was also an education site and the waters should be suitable for human contact or swimming; and
- (g) in conclusion, she was not against all developments but the control should be tightened before Small Houses were built, or irreparable damage would be caused.

[Total speaking time of Dr Cynthia Yau: 10 minutes]

[Mr Roger K.H. Luk arrived to join the meeting at this point.]

SLP-F12 - 黃素卿

SLP-F13 - Wong Yung

SLP-F15 - Angel Garralda

SLP-F18 - Ray Lam

HH/SLP/PL-R32 - 李耀斌

SLP-R10741 - Jane Wong

37. Members noted that a letter had been tabled by Mr Li Yiu Bun. Mr Li made the following main points:

- (a) he was glad that the preceding representers considered Hoi Ha a paradise. Local villagers were not against conservation but due to the infrastructural constraints in the area, neither conservation could be done nor could the villagers live there. The villagers left Hoi Ha in 1960s but came back in early 1970s because the Government built road access to the area to facilitate the provision of two water pumping stations for the development of High Island Reservoir. Since then, Hoi Ha had also attracted outsiders like Mr Newbery and his friends;
- (b) regarding the concern on cumulative impact expressed by Mr Newbery, the sentiment of the indigenous villagers of Hoi Ha Village was that those now living in Hoi Ha should not stop others from moving in to enjoy the environment there;
- (c) on sewage disposal issue, about ten years ago, the Government implemented the Strategic Sewage Disposal Scheme to collect sewage in the urban area, treat it at the sewage treatment plant in Stonecutters Island and dispose it at South China Sea. For Yung Shue O, the Government built a central sewage treatment plant to collect and treat the sewage from the village before discharging it into Tolo Harbour. The Government should allocate resource to implement similar measures for Hoi Ha, instead of restricting the use through land use planning control;

[Mr Eric K.S. Hui left the meeting temporarily at this point.]

- (d) although the villagers were angry with the Board's decision after the hearing of their representations on 20.5.2014, they still refrained from taking vigorous actions. Regarding the incidents that the villagers had removed the mangroves in Tai Ho and felled the trees in So Lo Pun, they just wished to demonstrate that the Government had deceived the green

groups and the public that the “AGR”, “CA” or “SSSI” zones could protect the environment. On the coming Sunday, they would also fell trees in Ping Chau which was designated as Country Park in 1970s to let the public know that introducing planning control on land uses could not solve the problem. The Government should liaise with the villagers and work out a compensation mechanism. If the Government was willing to put in additional resources, the villagers and the green groups could cooperate to make the area better; and

- (e) in conclusion, the Board was asked to sympathise with the villagers and to provide a “V” zone of reasonable size for Small House developments, i.e. revert to the “V” zones on the original draft OZPs and zone the villagers’ agricultural land as “AGR”.

[Total speaking time of Mr Li Yiu Bun: 11 minutes]

[The meeting was adjourned for a break of 10 minutes.]

[Mr Ivan C.S. Fu arrived to join, and Dr Wilton W.T. Fok and Mr David Y.T. Lui left the meeting at this point.]

[Mr Sunny L.K. Ho left the meeting temporarily at this point.]

SLP-F16 - Wong Sik Ling

SLP-F21 - 鎖羅盆村委員會

SLP-R10739/SLP-C3670 - 黃佑民

SLP-R10812/SLP-C3669 – Wong Hing Cheung

SLP-C3675 - Margaret Wong

SLP-C3676 - Wayne C. Wong

38. With the aid of a Powerpoint presentation, Mr Wong Hing Cheung made the following main points:

- (a) he was a representer himself and he also represented some further representers, representers and commenters who were villagers of So Lo Pun;
- (b) the wish of the So Lo Pun villagers was to re-establish their village. Among the 10,748 valid representations received and 9,967 representations partially upheld by the Board, 6,882 were recorded as anonymous. Deducting the anonymous representations, there were only 3,867 valid representations and the Board had partially upheld 3,086 representations;
- (c) the villagers objected to the green groups' proposal to rezone the majority of their private land to "CA", "GB" and "CPA". While they did not object to the conservation of natural ecosystem, it should be done only on Government land. Conservation of natural ecosystem on private land without any compensation was in fact confiscation of their land. He wondered whether the green groups would share their private properties with the society. He considered that everybody, not only people in rural areas, had the responsibility to conserve the natural ecosystem. The Board should consider what the green groups and the Government had paid for conservation, and whether it was fair to the villagers;
- (d) the sewage disposal issue was not confined to the rural area. It was the Government's responsibility to provide sewage disposal infrastructure for remote rural areas, not only for urban areas. If the Government could not provide sewerage to the remote rural areas, they should provide central sewage treatment facilities. The Government should not collect the sewage charge but put the responsibility on the villagers to resolve the sewage treatment problem by themselves; and should not zone their land as "CA" or "GB" to avoid the problem and responsibility;
- (e) in response to the green groups' allegations that huge profits were obtained from selling the Small Houses, it should be noted that it was the right of indigenous villagers to build Small Houses and the right was protected under the Basic Law. The application of Small House was under stringent scrutiny of government departments according to the law and regulations.

The Small Houses were also home to many families of non-indigenous villagers and made significant contribution to the Hong Kong housing market. Small House development could shorten the waiting time for public housing and provide an alternative housing choice for Hong Kong people. In fact, some members of Friends of Hoi Ha and Friends of Sai Kung also resided in Small Houses and had vested interests. Whilst those people had opposed Small House developments apparently on natural conservation ground, it was possible that it was also out of their selfishness that they did not wish to see new comers to the area;

[Mr Eric K.S. Hui returned to join the meeting at this point.]

- (f) the reduction in “V” zone based on the incremental approach was not fair to the villagers of So Lo Pun as their village had existed for more than 400 years and it was their right to build Small Houses. At the last hearing meeting, the villagers had already confirmed to the Board that they had more than 200 male descendants. The 4.12 ha “V” zone originally planned could meet half of their demand, but the ‘incremental approach’ adopted by the Board had reduced more than half of the “V” zone, ignoring the need for Small House of their village and their rights;
- (g) the villagers should not be put on par with the other stakeholders such as green groups and the general public. The villager settlement was part of the village environment, but the reduced “V” zone could only meet 25% of their Small House demand. He wondered whether using the villagers’ private land for nature conservation while the green groups had contributed nothing to the cause was a balance of interests in all sectors;
- (h) the green groups’ suggestion to include a majority of the villagers’ private land into the “CA” and “GB” zones had united them together to protest against the unreasonable land use planning;
- (i) the villagers were given no choice but to exercise their rights to remove wild grass and trees on their private land under the “CA”, “GB” and “V” zones.

Their actions had also aroused the awareness of other remote villages. Villagers had reactivated the agricultural activities in Tai Ho on 24.8.2014. They also rolled out the protest movement of ‘Return Farmland to Agriculture’ (「農地歸農地」) in So Lo Pun to request for deleting the “CA” and “GB” zones, and returning their land rights. The movement attracted over 250 villagers from their villages and other remote villagers to remove the wild grass and trees. They would continue to take actions to express their objection in the coming days; and

- (j) their villages only constituted very small parts of the territory of Hong Kong. There should not be any restriction for them on re-establishing So Lo Pun Village. In order to protect their ancestors’ land, they had no choice but to stand up to oppose the land use planning of the area which would terminate the village and confiscate their land. Rezoning the majority of their private land as “CA” and “GB” leaving only 2.48 ha of land for “V” zone had totally ignored the rights and needs for Small House development of more than 200 male descendents.

[Total speaking time of Mr Wong Hing Cheung: 21 minutes]

[Mr Sunny L.K. Ho returned to join the meeting at this point.]

HH-F4/SLP-F2 /PL-F2 – Paul Zimmerman

39. Mr Paul Zimmerman made the following main points:

- (a) he loved the countryside like the villagers. The green groups did not take away the villagers’ rights but actually supported genuine farming as permitted under the Block Crown Lease. He did not support the vegetation clearance action of the villagers to draw public attention and was surprised to know that PlanD could not take enforcement action as ‘vegetation clearance’ was not considered an unauthorised development;
- (b) there was grave concern about the ‘destroy first and build later’ approach

which was common all over the New Territories. AFCD considered that there were no mature woodlands in the areas but the fact was that the woodland could not grow to maturity if it had been left for destroying and removing over time. The intention of separating enclave areas from the boundaries of the country park in 1970s was to allow farming, rather than building houses. Regarding the requests for compensation, the villagers should support inclusion of their land into the country park as the Country Park Ordinance, unlike the TPO, had provision for compensation for their development rights. However, the villagers did not support the inclusion and therefore their claims for compensation were confusing. Regarding the about 6,000 anonymous representations submitted via the campaign held by WWF(HK), he trusted that WWF(HK) could disclose the details;

- (c) it should not only be the landowners' rights to use the land within the CPEs as there were 15 million visitors to the country parks every year. The reduction of "V" zones was supported as being rational, reasonable and fair, but the reduction was not enough. The Board had not considered all the information in designing the boundary of "V" zone nor had been consistent in applying the "GB(1)" zone. The "GB(1)" zone was applied to Hoi Ha but not So Lo Pun. The Board had changed the approach, and what they had decided for Tai Long Wan was not applied to the other CPEs;
- (d) the Board had not considered all relevant information that had been provided on previous occasions. These CPEs, unlike villages in Pat Heung and Clearwater Bay, were located deep inside the Country Park without road access. The Board had not considered the cumulative impact of population increase in these enclaves, and how many people could live in each CPE in respect of the carrying capacities of the country parks. The only information the Board was provided with was the land use impacts of the CPEs on the immediate surrounding land uses, but not the overall impacts on the whole Plover Cove and Sai Kung Country Parks;

- (e) if “GB(1)”, instead of “GB”, was adopted, it would ensure that no houses would be allowed in the area. It should not give false expectation to the landowners by zoning the land as “GB” or “AGR” to allow them to build NTEHs upon application; otherwise, the ‘vegetation clearance’ actions by villagers would last forever. There should be clear indication on the size of the population and the amount of houses that were allowed in each enclave, and these houses should be provided with the necessary infrastructure. The Board should not suggest the villagers to provide their own sewage system because the STS systems did not work in the areas with high water table. The Government should provide the necessary public sewage disposal system;
- (f) in Hoi Ha, cars were parked illegally on a piece of government land, which was an unauthorised land use. If the Board was to allow more houses in Hoi Ha, land should be reserved for parking, refuse collection and sewerage systems. The current sewage treatment approach for the Small Houses was to follow EPD’s ProPECC to conduct the percolation test. This should not be the correct approach in considering the land use zoning;
- (g) if more Small Houses were allowed in these enclaves, road access and traffic should also be allowed. According to the minutes of the hearing meeting, the Board had not considered the traffic/transport impact nor its cumulative impacts on the whole country park. There was no road system in Plover Cove Country Park and the road system in Sai Kung Country Park was limited. The Board had not considered that land in the country parks would be taken up for the provision or improvement of the road system; and
- (h) fire risk, traffic and solid waste would increase with population. All these cumulative impacts had not been considered by the Board in making a decision on the land use which would have detrimental impacts on the country park that could not be reverted.

[Professor P.P. Ho left the meeting at this point.]

- (i) he doubted if the Board would consider the cumulative impacts on the country parks when considering a Small House application within the “GB” and “AGR” zones. The incremental approach should not be applied to the Small House developments as it would allow more houses in the CPEs causing damage to the environment; and
- (j) the Board should consider the points he made and instruct PlanD to further amend the OZPs to shrink the “V” zones further.

[Total speaking time of Mr Zimmerman: 16 minutes]

PL-F10 - 劉天來

PL-R10736 - 劉成

40. Mr Kong Chee Cheung (representative of PL-F10) said that he was also representing another original representer (PL-R10736) who was unable to attend this meeting. He requested a total presentation time of 20 minutes to make the oral submission. His request was agreed by the Board.

41. With the aid of a Powerpoint presentation, Mr Kong made the following main points:

- (a) Pak Lap had an area of about 6.8 ha, constituting only a small portion of the 77 CPEs with a total area of over 2,000 ha;
- (b) the topography of Pak Lap was basically flat in the middle, and surrounded by hillslopes and woodlands on its periphery. Pak Lap Wan was located in the south of the area;
- (c) Pak Lap could be accessed by an existing footpath of 470m in length

leading from Sai Kung Man Yee Road. In 2012, an improvement scheme for widening the footpath to 1.2m wide was approved by the Government. The improvement works, which were scheduled for implementation in 2015, would improve significantly the accessibility of the area; and

- (d) Pak Lap Village had a history of over 200 years. The 'VE' boundary was similar to that of the Pak Lap OZP.

42. With the aid of a Powerpoint presentation, Ms Tsai Yen Mie made the following main points:

- (a) her company was responsible for the sewage treatment aspect of Small House developments at Pak Lap;
- (b) the proposed sewerage treatment facility in Pak Lap would be based on a design capacity of 120 houses;
- (c) the effluent discharge in Pak Lap had to comply with the standards for Group D inland waters, which were much lower than those for water gathering grounds (WGGs) and relatively easy to achieve;
- (d) if individual STS system was built for 120 Small Houses, significant land space would be required. With the economy of scale provided by 120 houses, other alternatives of sewage treatment facility should be considered since the operational and maintenance costs could be shared amongst the occupants at a reasonable and acceptable level;
- (e) sewage treatment facilities using membrane bioreactor technology was one such alternative given its stable and effective performance, compact land requirement and reusability of the treated effluent. As the quality of treated effluent could be controlled under the membrane bioreactor technology, it could even be better than those treated by public sewage treatment works in Sha Tin and Stonecutters Island;

- (f) the main working principle of membrane bioreactor technology was membrane filtration. With surface pores as small as 0.4 micron-metres, the membranes could separate organic matters such as *E. coli* (with a size of 0.45 micron-metres) from the treated effluent effectively;
- (g) a 30-second video was shown to demonstrate the filtration process of the membrane bioreactor system. Bubble aeration was constantly required to wash up the membrane surface to avoid the blockage of pores;
- (h) the membrane bioreactor technology could enable wastewater be treated to a standard that could be reused for toilet flushing and irrigation purposes; and
- (i) with the installation of the proposed sewage treatment plant, the water quality of Pak Lap stream would be improved.

43. Mr Kong Chee Cheung further made the following main points:

- (a) some of the land within the “V” zone on the draft Pak Lap OZP was not usable for Small House developments since the land adjoining the tsz tong had to be left vacant for ‘fung shui’ reason. The available space within the “V” zone would be further reduced if buffer zones were to be allowed along Pak Lap Stream to facilitate air ventilation. For a 5m wide buffer, some 620 sq.m. of land would become non-building area;
- (b) due to the limited space within “V” zones, villagers had no choice but to build the Small House developments densely within some villages such as Ho Chung;
- (c) according to an aerial photo taken in 2003, the condition of the grassland in the middle of Pak Lap was more or less the same as the present condition;

- (d) according to a newspaper report in 1950, as early as 1898, indigenous villagers had been favourably treated by the then colonial government including exemption of land premium payment for building village houses on their own agricultural land;
- (e) the Small House Policy, which became effective in 1972, was considered more stringent by villagers because the location of village houses had been restricted to within the 300-feet 'VE';
- (f) membrane bioreactor technology had been employed in the sewage treatment facilities of Lady Macle hose Holiday Camp, which received those residents of Amoy Gardens affected by SARS in 2003;
- (g) with sufficient economy of scale, the proposed sewage treatment facility would not be a lot more expensive than construction of individual STS systems but the quality of the treated effluent would be improved remarkably;
- (h) to minimise the potential water pollution problem, the existing village houses in Pak Lap would also be connected to the proposed sewage treatment facility;
- (i) a Deed of Mutual Consent would be drawn up to guide the management responsibility of the proposed sewage treatment facility; and
- (j) in the light of the above, it was proposed that the boundary of "V" zone be reverted to that shown on the draft Pak Lap OZP No. S/SK-PL/1.

[Total speaking time of Mr Kong Chee Cheung and Ms Tsai Yen Mie: 20 minutes]

[Professor Eddie C.M. Hui returned to join, and Dr W.K. Yau and Mr H.W. Cheung left the meeting temporarily at this point.]

44. The Chairman then invited the original representers and their representatives to

elaborate on their comments on the FRs.

[Mr Clarence W.C. Leung and Mr Eric K.S. Hui left the meeting at this point.]

HH/SLP/PL-R18 - 翁焯發

45. Mr Yung Wong Fat made the following main points:

- (a) he was the VR of Hoi Ha Village;
- (b) he strongly objected to the proposed amendments to the draft Hoi Ha OZP published on 25.7.2014; and
- (c) his proposals in relation to the draft Hoi Ha OZP were as follows:
 - (i) to maintain the boundary of the original “V” zone and more land should be reserved for village development;
 - (ii) the proposed “GB(1)” area should be rezoned to “GB”; and
 - (iii) the agricultural lots should be designated as “AGR”.

[Total speaking time of Mr Yung Wong Fat: 1 minute]

HH/SLP/PL- R28 - 陳祖旺

46. Mr Chan Cho Wong made the following main points:

- (a) he was a villager of Lung Mei of Tai Po;
- (b) he found that the OZP restrictions had contravened both the Basic Law and the “United Nations Declaration on the Rights of Indigenous Peoples” (UN Declaration);

- (c) according to BL 39, “*the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region (HKSAR). The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.*” The Government was therefore obliged to observe the UN Declaration;
- (d) the UN Declaration was “*guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter*”. It was “*concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests*”;
- (e) according to BL 105, “*the HKSAR shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay. The ownership of enterprises and the investments from outside the Region shall be protected by law.*” However, in designating the villagers’ private land for conservation purpose, the landowners had not been given any compensation, which was in contravention with BL 105;
- (f) Article 28 of the UN Declaration stated that “*Indigenous peoples have the right to redress, by means that can include restitution or, when this is not*

possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.” Again, no reasonable compensation had been paid to the indigenous villagers in zoning their private land for conservation purpose, both in monetary terms or in exchange of land;

[Dr W.K. Yau returned to join the meeting at this point.]

- (g) BL 6 referred to the protection of right of private ownership of property according to the law. It was ‘保護’ not ‘保育’;
- (h) BL 40 stated that *“the lawful traditional rights and interests of the indigenous inhabitants of the ‘New Territories’ shall be protected by the HKSAR.”* Article 8 of the UN Declaration also stated that *“Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.... States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities*” However, the planning restrictions on private land had deprived the indigenous villagers of their cultural and traditional rights including farming, living, and building village houses in the village;
- (i) according to BL 120, *“all leases of land granted, decided upon or renewed before the establishment of the HKSAR which extend beyond 30.6.1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region.”* Indigenous villagers were therefore legal landowners and their consent should be sought on any proposal to change the use of their land;

[Mr H.W. Cheung returned to join and Dr C.P. Lau left the meeting temporarily at this point.]

- (j) the Government had unilaterally designated private land for conservation purpose in many CPEs. This would attract strong opposition from the villagers and might cause social unrests. Such planning policy should be reconsidered; and
- (k) in conclusion, the OZP restrictions had contravened five articles of the Basic Law and seven articles of the UN Declaration. A copy of the Basic Law and the UN Declaration would be given to the Board for further reference.

[Total speaking time of Mr Chan Cho Wong: 10 minutes]

[Post-meeting notes: a copy of the Basic Law and the UN Declaration had been passed to the Secretariat by Mr Chan Cho Wong for Members' reference.]

[Ms Janice W.M. Lai left the meeting at this point.]

HH/SLP/PL-R10641 - Tam Kwok Sun

47. Mr Tam Kwok Sun made the following main points:

- (a) he was an ordinary Hong Kong citizen not affiliated with any villages, green groups or private companies;
- (b) there were paragraphs in all three TPB Papers that were related to STS systems, which stated that "Members of the Board were of the view that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zone would not entail unacceptable impacts on the surrounding environment." In reality, STS systems were far from effective;

- (c) although STS systems were approved by the relevant government department, it would be very difficult to maintain their efficiency and effectiveness after some years of operation. This would bring about adverse impacts on the surrounding environment ;
- (d) the HKU professors had recently conducted water quality tests in HHWMP and found inorganic materials and chemicals in the water content. Apart from the deficiency of STS systems, the pollution might also be caused by illegal wastewater discharge from the village and water runoffs containing pesticides;
- (e) in a LegCo document of 1996, a government official had admitted that the STS system was insufficient to protect the natural environment;

[Dr W.K. Yau left the meeting temporarily at this point.]

- (f) although the area zoned “V” had been reduced upon the proposed amendments to the draft So Lo Pun OZP, there would still be 68 new Small Houses to be built within the “V” zone. Since So Lo Pun Village had been abandoned for a long time and there was no inhabitant in the area at present, the number of new houses permitted was not reasonable and not in line with the incremental approach. Further reducing the area of “V” zone would be more sensible. Also, it would be worth considering renovating the existing village houses to cater for the Small House demand;
- (g) the message sent out from the villagers’ action to rehabilitate agricultural activities was more akin to environmental destruction. The villagers should rethink the appropriate means to express their views in fighting for their rights; and
- (h) a proper balance should be struck between development and conservation. The proposed reduction in land zoned “V” in Pak Lap and Hoi Ha was supported.

[Total speaking time of Mr Tam Kwok Sun: 10 minutes]

[Mr Sunny L.K. Ho left the meeting at this point.]

R800 (HH/SLP/PL) - Christine Chan

R3752 (HH/SLP/PL) - 李婷婷

R3900 (HH/SLP/PL) - Judy Kai

R6868 (HH/SLP/PL) - Helen Yip

R8260 (HH/SLP/PL) - Tammy Lam

R10874 (HH)/ R10820 (SLP)/ R10738 (PL) - World Wide Fund Hong Kong

48. With the aid of a Powerpoint presentation, Mr Chan Chung Ming made the following main points:

- (a) the approach of enhancing protection by reducing the “V” zones and the corresponding revision of the Explanatory Statements of the OZPs were supported;
- (b) notwithstanding that, there were still concerns on the extent and zonings of the proposed amendments which were inadequate to protect the CPEs of high ecological and conservation value;
- (c) most of the lowlands such as Lam Tsuen and Kam Tin had been developed. Hoi Ha, So Lo Pun and Pak Lap were the remaining important lowland habitats in Hong Kong. The low gradient streams in these areas with sandy substrate and freshwater marshes were ecologically important to wildlife such as dragonflies, fishes and amphibians. The areas also served as an ecological linkage between habitats in the CPEs and the adjoining country parks;
- (d) there were concerns that the geological setting of the areas, i.e. covered with alluvial soil, was not suitable for treating domestic sewage. Permitting extensive Small House developments without conducting any assessment on

the carrying capacity of land in treating sewage might lead to water pollution of the sensitive water bodies. There were also illegal drainages and outfalls discharging to streams and water bodies. A precautionary approach should be adopted to protect the sensitive habitats from the sewerage impact generated from future developments;

- (e) it was admitted in an “Information Note on Policy & Planning of Sewage Infrastructure for Unsewered Villages” considered by the LegCo Panel on Environmental Affairs in 2006 that some degree of failure of the village STS systems was inevitable and they could cause pollution to the environment and potential health hazards to the villagers;
- (f) a leaflet on village sewerage programme prepared by DSD also pointed out that STS systems might cause environmental pollution and hygiene problem due to a rise in the development density of village house, illegal discharge to surface drains and lack of regular desludging;
- (g) the Tai Long Wan approach was applicable to the three CPEs. According to the general planning intention of the Tai Long Wan OZP, the prime consideration of conservation in Tai Long Wan was the scenic and unspoiled natural environment and features of ecological significance rather than the historic villages; and
- (h) it was proposed that the “V” zones on the three OZPs should be confined to the existing building lots and approved Small Houses, whilst the “AGR” and “GB” zones in So Lo Pun and Pak Lap should be rezoned to at least “GB(1)” to offer further protection to the sensitive habitats from future developments.

[Dr W.K. Yau returned to join the meeting at this point.]

49. The Chairman said it was already 12:50 p.m. As more than 10 speakers had not yet made their oral presentations which all together would take about two hours and there would be a Q & A session afterwards, all the attendees might wish to make their own arrangement in the afternoon taking into account the progress of the meeting which would

continue.

HH-R10871/SLP- R10848/PL- R10751/ HH/SLP/PL- C3653 - Cheng Hang Fan

HH-R10836/ SLP-R10750 - K.C. Chiu

50. Ms Cheng Hang Fan said that she and her husband, Mr K.C. Chiu, would make a presentation together. She said that they had submitted a total of seven representations/comment/FRs but her FRs had wrongly been invalidated and ruled invalid by the Board. She should be allowed to make oral submission on the FRs as there was new evidence to support her written submission. The Chairman said that the oral submission should be related to the proposed amendments to the three OZPs and the original written submissions, and new submissions would not be accepted.

51. In response to the Chairman, Ms Cheng said that she had submitted HH-R10871, SLP-R10848, PL-R10751, HH/SLP/PL-C3653, HH-F54 and PL-F12, and his husband had submitted HH-R10836 and SLP-R10750.

52. The Secretary confirmed that Ms Cheng had submitted three valid representations and three valid comments in respect of the three OZPs, and Mr K.C. Chiu had submitted two valid representations. The FRs submitted by Ms Cheng (i.e. HH-F54 and PL-F12) had been ruled invalid by the Board because they were not related to the proposed amendments or submitted by an original representer/commenter. Ms Cheng, in the capacity of an original representer and commenter, was entitled to make an oral submission. In view of the large number of representations, comments and FRs received, it was necessary to limit the time for making oral submissions to 10 minutes for each speaker. So far, the attendees had been cooperative in making oral submissions and focusing on the main points of the subject matters in their written submissions. Ms Cheng was therefore asked to make the best use of her speaking time.

53. Ms Cheng insisted that her FRs were valid since she raised a fundamental issue that the Board could not designate “V” zones on the statutory plans. Mr K.C. Chiu said that he had submitted two representations, No. HH-R10836 and SLP-R10750, and should be allotted 20 minutes for his presentation. After further checking and consideration of Mr and

Mrs Chiu's request, the Chairman said and Members agreed that Mr and Mrs Chiu would be given a total presentation time of 30 minutes. The Chairman reminded them that the presentation contents should be related to the amendments to the Hoi Ha, So Lo Pun and Pak Lap OZPs and their presentation would be stopped if irrelevant matters were presented.

54. Members noted that a document submitted by Ms Cheng and Mr Chiu had been circulated for Members' reference. Mr Chiu made the following main points:

- (a) there was no need to make any ruling on the different views submitted in respect of the OZPs. It was because there was a land administrative problem in that the inclusion of private agricultural lots in the draft OZPs had contravened the Block Crown Lease (BCL);
- (b) upon signing of the Convention of Peking in 1898, land in the New Territories was lent to the British Government. Out of 396 square miles of land involved, about 67 square miles (about 18.8%) was covered by BCLs. Such information was obtained from the Hong Kong Government Records Service and the London National Archive. The background of BCL and Small House Policy were also clearly stated in the 'Land Executive Handbook' of 1981; and
- (c) many government officials did not have a full understanding of BCL. According to the Basic Law and by virtue of the New Territories Lease (Extension) Ordinance (Cap. 150), the effect of all BCLs had been extended to 2047. The problems however lied in the enforceability of BCLs. Before 1984, all BCLs were effective and enforceable. After the enactment of the Property and Conveyancing Ordinance (Cap. 219) (PCO) in June 1984, all the provisions related to the alienation and transfer of land under the New Territories Ordinance (Cap. 97) (NTO), based on which the reasonableness and effectiveness of BCLs were derived, had been repealed.

55. The Chairman reminded Mr Chiu to confine his presentation to matters relating to the proposed amendments to the three OZPs. Mr Chiu protested and said that the Chairman

should not interrupt his presentation. The Chairman reminded him to observe the practice and procedure of the meeting promulgated by the Board and allowed Mr Chiu to continue his presentation.

56. Mr Chiu continued to make the following main points:

- (a) the implementability of BCLs had been lost after the enactment of PCO in 1984. Beforehand, there were land instruments available for executing BCLs based on the provisions of the NTO. However, due to the political decision of the then colonial government to enact the PCO, the relevant provisions of NTO and land instruments were no longer in effect. The alienation and transfer of private agricultural lots that took place after 1984 therefore contravened the provisions of BCLs. LandsD should know the problems associated with BCLs but chose to ignore them;
- (b) developments were permissible on agricultural lots. The application procedure for converting agricultural lots for building purpose as well as the provision of easement and appurtenant had been specified in BCLs. Such provisions enabled the Government to maintain control over the development and easement on agricultural lots. As LandsD did not enforce the control regarding the right of easement, developments had not been properly controlled in accordance with BCLs, thus causing pollution of rivers and blockage of access;
- (c) the Court of Appeal had clearly pointed out in the judgment of the Melhado case that if depositing matters on agricultural land was for building purpose, it would not contravene the BCLs. LandsD however had not put forward this argument during the court hearing; and
- (d) all alienation and transfer of private agricultural lot that took place after 1984 were in contravention of BCLs and should not be included in the statutory plans.

[Mr Laurence L.J. Li left the meeting at this point.]

57. With the aid of the visualiser, Mr K.C. Chiu further said that the effect of Small House Policy should only be confined to unleased land, not private land. At this juncture, a Member said that the issues presented thus far by Mr Chiu pertaining to the BCL were not relevant to the amendments to the three draft OZPs. The Chairman reminded Mr Chiu again to focus his presentation on subjects relating to the amendments to the three draft OZPs. Mr Chiu continued to make the following main points:

- (a) the Small House Policy itself had no problem. The main problem arose from the application of Small House Policy to private agricultural lots. It was because the conversion of agricultural lots to building purpose, at a ratio of 5 feet to 2 feet, had already been specified in BCLs;
- (b) the malpractice of LandsD had led to proliferation of developments which contravened the BCLs, resulting in adverse impacts on people living in the villages;
- (c) while the introduction of the requirement for emergency vehicular access (EVA) had helped protect the right of easement and appurtenant, none of the EVAs was given easement and registered in the land records;
- (d) the Demarcation District (DD) sheets were the authentic survey plans of agricultural lots for identification, leasing and conveyancing of the scheduled lots in BCL. The boundary of the Old Schedule Lots and the alignment of public easement were clearly demarcated on the DD sheets. Since many authentic DD sheets had been lost, the original lot boundaries and public easement on agricultural lots could no longer be identified properly;
- (e) according to the 'Small House Policy Instructions' of 1980, a 25m buffer should be provided in front of each Small House development. Obviously, this instruction had not been followed and the right of public easement under BCLs had not been adequately controlled by LandsD;

- (f) under the Village Removal Policy of 1977, there were provisions for land exchange to facilitate urban development. Such policy should be considered to facilitate the implementation of conservation zones on the draft OZPs;
- (g) under BCLs, if agricultural lots were to be converted to building purpose, the extent of buildings, access and other public purposes should be delineated. The conversion ratio of 5 feet agricultural land to 2 feet building land was imposed to ensure that adequate access and public facilities were to be provided;
- (h) the Board should seek legal advice regarding the implication of the PCO on BCLs. By allowing private lawyers and land surveyors to delineate the configuration of private lots, the provisions of BCLs regarding right of easement had already been contravened; and
- (i) as development on agricultural lots had already been governed by BCLs, designating private land as “V” on the statutory plans was not necessary. As the private land in Hoi Ha, So Lo Pun and Pak Lap had been subject to change after 1984, they should not be included in the “V” zone.

58. Ms Cheng made the following main points:

- (a) legal control on the use of land should be upheld;
- (b) since the Small House Policy was applicable only to unleased land but not private land, the Government should consider resuming the private land to enable proper implementation of the Small House Policy; and
- (c) LandsD should take action against any contravention of BCLs, including the transfer of land titles to private developers.

59. At this juncture, the Chairman asked Ms Cheng to stop her presentation as the 30-minute time limit had expired, and invited the next speaker, Mrs Nicola Newbery, to make

her presentation. However, Ms Cheng insisted that she herself was entitled to speak for another 20 minutes and refused to stop her presentation. After repeated warnings, Ms Cheng declined to stop speaking and leaving her seat to allow the next speaker to do the presentation. The Chairman then asked Ms Cheng to leave the meeting room. Ms Cheng refused and continued to shout. The Chairman announced that the meeting could not be continued because of the disruption and adjourned the meeting temporarily for the Secretariat to handle the situation.

[The Secretariat explained to Ms Cheng and Mr Chiu the Guidance Notes on the hearing arrangement and the time limit allotted to them for the further hearing of the three OZPs. Ms Cheng eventually asked for two more minutes to finish her presentation.]

[The meeting was adjourned for about 5 minutes.]

60. When the meeting was resumed, the Chairman said that he would exercise his discretion and gave Ms Cheng two more minutes to conclude her presentation. Ms Cheng then made the following main points:

- (a) the Small House Policy was only applicable to unleased government land, not private land;
- (b) land exchange mechanisms should be considered for areas that were not suitable for development such that the concerned villagers could build Small Houses at other locations;
- (c) while the right of indigenous villagers regarding Small House developments should be respected, the transfer of Small House rights to private developers should not be allowed;
- (d) it was the duty of the Board to consider resuming private land of ecological significance and providing proper roads and public facilities for the villagers; and
- (e) the work arrangement was better when LandsD and PlanD were under the

same department in the past.

[Total speaking time of Mr K.C. Chiu and Ms Cheng Hang Fan: 32 minutes]

[Mr H.W. Cheung and Mr H.F. Leung left the meeting at this point.]

HH/SLP/PL-R878 - Tom Hou

HH-R10750 - Nicola Newbery

61. Mrs Nicola Newbery said that she was a representer and also representing Mr Tom Hou, who attended the meeting earlier but had left, to make the oral submission. She requested for a total presentation time of 20 minutes. Her request was agreed by the Board.

62. With the aid of a Powerpoint presentation, Mrs Newbery made the following main points:

- (a) on 19.11.2014 and 20.11.2014, several hundred copies of an email and photographs, showing people objecting to the insufficient “V” zone and opposing nature conservation, were sent to her e-mail account as an attempt to block her internet access. This constituted an overt threat that the environment of the Hoi Ha valley might be destroyed. It was also an attempt to intimidate those people who had different views from these people;
- (b) the Board should make decisions based on the facts provided by acknowledged environmental experts. It should prevent one of Hong Kong’s most important environmental resources from being destroyed for the sake of a few people’s greediness;
- (c) none of these people was living in the village of Hoi Ha as she did not recognise any of them. They could be absentee indigenous villagers or indigenous villagers from other villages. What they wanted was to rezone the “GB(1)” to “GB” and unrestricted farming, so that the “GB” area could be trashed by bogus farming and rezoned for housing development. The

houses would then be sold to outsiders for the benefit of those absentee indigenous villagers and property developers. However, this would also lead to the destruction of the environment surrounding Hoi Ha and of the HHWMP/SSSI;

- (d) paragraph 3.8 of TPB Paper No. 9786 stated that “should there be a genuine need for more Small House development, flexibility had been provided under the rezoning application system to expand the “V” zone”. This sentence should be removed as it would encourage the private land covered by “GB(1)” to be trashed by developers who owned the land in the anticipation of a rezoning into building land;
- (e) regarding the impact of pesticides, the Pesticides Ordinance only covered the manufacturing and sale of chemicals but not their use. Many chemicals which were regularly used by farmers in Hong Kong were highly toxic to marine life even in tiny concentrations;
- (f) with regard to the planning control relating to diversion of streams, filling of land/pond or excavation of land, the enforceability of the restrictions were doubtful if the streams were located on private land and not marked on the maps;
- (g) AFCD’s statement that “*there is no strong justification for imposing more stringent control on ‘Agricultural Use’ within the “GB(1)” zone*” was not supported by facts and ignored the further impacts of silt from excavation and fertilisers from agricultural activities washing into HHW. Uncontrolled agricultural runoffs might in effect pollute HHW;
- (h) the requirement to build Small Houses was dominated by the desire to make money, rather than the need to live in the village. However, it was supported by government departments including AFCD, EPD and PlanD based on misleading information, inadequate research and false facts;
- (i) the concerned government departments had been negligent during the

planning process:

- (i) AFCD did not advise the Board on the environmental consequences of the draft Hoi Ha OZP, particularly the effects of pollution on the HHWMP/SSSI, and had made no effort to improve the ecological database for the area;
- (ii) EPD did not apply the law and written policy in respect of the licensing of STS systems and did not advise the Board on the constraints of septic tank construction in relation to the Hoi Ha OZP; and
- (iii) PlanD did not provide the Board with accurate, up-to-date maps which properly showed the physical features of the area including coastline and streams;
- (j) the Board had the option to listen to the voices of eminent scientists and those people with the best knowledge of Hoi Ha and its environment, or the strident voices with no planning credentials and no scientific evidence;
- (k) if the Board's decision was right, controlled and environmentally friendly buildings and agricultural activities could take place, and Hoi Ha and HHW would be preserved for future generations and would continue to be valuable resources for tourism and education; and
- (l) if the Board's decision was wrong, Hoi Ha would be ruined and HHW killed by effluent, silt and pollution forever. This would be the legacy of the Board and its members.

[Total speaking time of Mrs Nicola Newbery: 20 minutes]

HH- R10870 – The Professional Commons

63. Mr Ng Wing Fai, Stanley, made the following main points:

- (a) he tendered apology on behalf of Hon Charles Mok, Chairman of the Professional Commons, for being unable to attend the meeting; and
- (b) the Board should instruct the relevant government departments to conduct an Environmental Impact Assessment (EIA) for the Hoi Ha area. In doing so, the ambiguities and inaccuracies as shown in the Board's decision would not have occurred.

64. With the aid of a Powerpoint presentation, Dr Robin Bradbeer made the following main points:

- (a) the Professional Commons had made further comments relating to the latest version of the Hoi Ha OZP. These comments were based upon new data as well as the recent proposed amendments to the draft Hoi Ha OZP;
- (b) many stakeholders had presented biased information, with conclusions oriented to support their vested interests or objectives. The only way to determine the true state of the CPEs and the surrounding areas was through a comprehensive EIA commissioned by AFCD or EPD and conducted by an independent consultant. The stakeholders could then comment on the EIA and the Board could arrive at conclusions based on unbiased data;
- (c) planning decisions regarding the CPEs, including Hoi Ha, should be based on objective, thorough and accurate scientific data. Independent EIAs should be conducted for all CPEs before any zoning decisions were made;
- (d) the definition of 'fung shui forest' and 'fung shui woodland' needed to be clarified. Although the two terms were different in English, the same term '風水林' was used for both in Chinese. There were distinct differences between the two. While 'fung shui forest' referred to any assemblage of local tree species including old and new forest areas, 'fung shui woodland' meant a section of old forest enhanced and maintained by a village. This had led to the secondary forest to the east of the village cluster in Hoi Ha

being zoned as “CA”, when secondary forest to the west was designated as “GB”. In fact, the “GB” area was cleared for the lime kiln industry at the same time when the “CA” area in the east was used for agriculture. The area of old forest that survived to the south of the village was ‘fung shui woodland’, which should be preserved. The other woodlands were secondary forests and could be classified as ‘fung shui forest’;

- (e) the area allocated for the extended “V” zone was unsuitable as it was in a flood plain that drained directly into HHWMP. It would not be able to accommodate the number of Small Houses planned in the area. There were also no planned amenities and facilities serving the area;
- (f) as regards the proposed “GB(1)” zone, the transfer of most of the permitted uses from Column 1 to Column 2 of the “GB” zone was so restrictive that it might as well be designated as “CA”. This would overcome the problem of delineating artificial boundaries that could be subject to dispute, especially when there was no scientific reason for the boundaries;
- (g) AFCD had the obligation to ensure that all land areas bordering the HHWMP had the highest level of environmental protection so as to prevent any pollution. The “CPA” zoning was inadequate for such purpose as existing polluters were allowed to continue to pollute the area;
- (h) *E.coli* pollution along the coastal forest of Hoi Ha had been confirmed by both HKU and the Professional Commons. The “CPA” area should be rezoned to “CA” in order to provide the highest level of protection until designation of the Hoi Ha area as country park;
- (i) on-going research in the Hoi Ha area confirmed the sighting of a critically endangered species, the Chinese Pangolin. There was circumstantial evidence of this species in the area around the Pak Sha O river valley and in the Hoi Ha enclave. No consideration had been taken to protect these endangered animals in the zoning proposals for Hoi Ha or Pak Sha O. It was essential that the current zoning exercises be stopped until such time

when the full range of these animals was determined and that any OZP should take this into account. If the presence of the Chinese Pangolin was confirmed, the Board should recommend to AFCD country park status for the concerned areas; and

- (j) the Professional Commons maintained the stance that the best solution for the Hoi Ha area was to designate it as a country park. If this was not possible immediately, the village areas should be rezoned to “CDA” while the other areas be designated as “CA”. Any village expansion should be confined to the least sensitive areas in the south-east. Moreover, it was imperative that a full EIA should be carried out by independent parties before any zoning proposals were finalised.

65. Mr Ng Wing Fai, Stanley, concluded the presentation with the following main points:

- (a) under section 3 of the TPO, the Board had a statutory duty to make such inquiries and arrangements as it considered necessary for the preparation of such drafts. In view of the special circumstances of Hoi Ha and the presence of critically endangered species of Chinese Pangolin, the Board should instruct the relevant government departments to conduct a comprehensive EIA for the area to identify the real development needs and environmental impacts; and
- (b) there was a recent campaign in saving Chinese Pangolins involving Prince William of the UK. The Government should take serious note of the importance of the endangered species and undertake its statutory duty to protect them.

[Total speaking time of Mr Ng Wing Fai, Stanley and Dr Robin Bradbeer: 13 minutes]

SLP-10737 - 范富財(蛤塘村原居民村代表)

66. Mr Fan Foo Choi made the following main points:

- (a) the village of So Lo Pun had a history of several hundred years and the villagers had made much effort to establish the village;
- (b) the villagers had moved out of the village for a living because the Government had not provided adequate facilities to support the village. It was a pity that the Government had not made the best use of land resources;
- (c) while proper planning of new development areas and provision of infrastructure were supported, designating private land as “GB” or “CA” was unreasonable as it would adversely affect the living of the villagers. There were too many planning restrictions on the use of private agricultural land. It was unjust to deprive the private landowners of their own rights;
- (d) the Government should provide necessary infrastructure and facilities including roads and sewers to serve the villages. The onus of providing roads and sewage disposal facilities should not be put on the villagers;
- (e) the planning of villages should be justified on good grounds. If the villagers did not support the plan, there would be objections and protests like the ‘Occupy Central’ action;
- (f) the villagers had the right to re-establish their village and resume agricultural activities. The Government should not intervene with their rights; and
- (g) the Board should carefully consider the implications of the planning policy taking into account the needs of the villagers.

[Total speaking time of Mr Fan Foo Choi: 7 minutes]

SLP-R10736 - 鎖羅盆村村務委員會聯同曾家裘測量師有限公司

67. With the aid of a Powerpoint presentation, Mr Thomas Tsang Ka Kau made the following main points:

- (a) So Lo Pun was an old village with unique culture and tradition. After reunification and opening up of the Closed Area in Sha Tau Kok, the villagers had intended to re-establish the village;
- (b) as he had been explained his proposals to the Board during the representation hearing, he would not repeat. In gist, the main proposals were to amend the draft OZP, i.e. to expand the “V” zone; to rezone some parts of the “CA” zone to “V”, “Recreation”, “AGR” and “GB”; and to rezone an area zoned “GB” to “Government, Institution or Community”. The provision of sewage treatment facilities and environmental protection measures would facilitate village development;
- (c) the villagers expected that planning would bring them benefits. A reasonable planning for the area would bring long-term benefits to the village. The main aspirations of the villagers were to establish a ‘green home’ and to reinstate an effective and vibrant rural economy in So Lo Pun;
- (d) if the proposed amendment to the draft OPZ was confirmed, the villagers’ wish to re-establish the village would vanish and there would be arguments amongst villagers as the “V” zone could only accommodate 68 Small Houses. Moreover, most of the villagers could not return to and live in the village and the development potential of their private land would be frozen;
- (e) while the public was calling to support for development within “GB” zones to provide housing for the younger generations, the planning of So Lo Pun should also take a forward step to sustain its future development; and
- (f) he asked the Board to reconsider the planning for So Lo Pun:
 - (i) it had been demonstrated in the planning proposals by PlanD in that there were no mangroves, reed ponds, mudflats/wetlands, freshwater marshes, EIS and existing streams within the “V” zone including the area under the proposed Amendment Item A. This area was not

suitable for agricultural activities. The “V” zoning was therefore appropriate;

- (ii) the area under the proposed amendment was flat land adjoining the main access to the village. If the area was zoned “GB”, the whole planning intention and access arrangement of the village would be adversely affected;
- (iii) the succession of land titles to some 300 indigenous villagers was under processing. After completion of the necessary procedure, these villagers would be eligible for Small House grants. Therefore, the incremental approach in Small House development should not be applicable to So Lo Pun; and
- (iv) the development of So Lo Pun Village should complement the North East New Territories Development Strategy to foster local economy and promote eco-tourism. This would help re-establish the village and provide employment opportunities for the villagers.

[Total speaking time of Mr Thomas Tsang Ka Kau: 6 minutes]

SLP-R10740 - 曾玉安

68. With the aid of the visualiser, Mr Tsang Yuk On made the following main points:
- (a) he was the VR of Mui Tsz Lam, executive member of Sha Tau Kok Rural Committee and a member of a union formed by seven villages including Lai Chi Wo and So Lo Pun to help out one another;
 - (b) villages should be set within a nice environment, supported by adequate infrastructure and ancillary facilities, and suitable for living;
 - (c) after ‘rehabilitation’ of agricultural activities in Lai Chi Wo, the image of the

village had changed and resembled its original state and those villages of So Lo Pun and Mui Tsz Lam in the 1960s. Such image should be cherished by the public at large;

- (d) there had been a lot of misunderstandings on the development of villages. Firstly, there were concerns for over-development in the villages as village development and provision of roads for villages were often perceived as profit-making projects. Secondly, there were mistrust on the villagers and misinterpretations of the genuine nature of agricultural land which was not for nature conservation purpose. Thirdly, there was a bias towards the ecological value of the enclaves. The villagers and paddy fields in the enclaves were intentionally left out from the country parks in order to sustain the living of villagers and the development of villages. The needs of villagers should therefore not be neglected;
- (e) agricultural lots should be designated as “AGR” and rehabilitation of agricultural activities should be encouraged. AFCD should be vested with the responsibility to undertake coordination works to facilitate the rehabilitation of agricultural activities such as those in Lai Chi Wo;
- (f) there should be a reasonable policy on nature conservation. Otherwise, the designation of private land for conservation purpose was equal to confiscation of property;
- (g) the flora and fauna found in the enclaves were of no value and they grew after the farmland had been abandoned. The fung shui woods and the precious landscape and natural features in the villages were treasured by the villagers and had been properly protected;
- (h) there was much scope to encourage eco-tourism and sustainable development in the villages;
- (i) between 1977 and 2011 he was a teacher in a secondary school. Like the education of people, development should be given support, encouragement

and space. Adopting an over-restrictive approach on development would attract opposition and damage the harmony of society;

- (j) in contrast to those villages in Yuen Long, Tai Po and Sai Kung where many Small Houses were built, it would be very difficult for indigenous villagers of such remote villages as So Lo Pun to realise their Small House rights or return and live in the village due to the lack of access, infrastructural facilities and utilities. To sustain the living environment of the villagers, consideration should be given to opening up the Closed Area in Sha Tau Kok and providing environmentally friendly transport facilities to serve the villages;
- (k) although agricultural activities were permitted in all zones, designating agricultural lots as “CA” or “GB” was misleading. They should be rezoned to “AGR”. The Government should have the courage to admit and correct its mistakes; and
- (l) villages were not zoos, botanical gardens or insectariums. They should be planned for people to live in.

[Total speaking time of Mr Tsang Yuk On: 8 minutes]

69. The Chairman then invited the commenters to elaborate on their comments on the FRs.

HH/SLP/PL-C386 - Ruy Barretto

70. In response to Mr Ruy Barretto’s query, the Chairman said that all the written submissions of the further representers, representers and commenters, including the one submitted by Mr Michael Kilburn (HH-F48), had been provided to Members before the meeting. Mr Barretto then made the following main points:

- (a) the proposed amendments to the draft OZPs were appreciated but there was still a great deal to be done;

- (b) the abuse of Small House policy was the main cause of the degradation of countryside and the CPEs. Another main cause was the failure of government departments to fulfill their duties, for example, ecological surveys had not been carried out and topographical features had not been accurately plotted on maps. While there were claims in the TPB Papers that there had been adequate control on pollution, the continual degradation in environment quality meant that the government departments were not doing their jobs properly. The departments should not adopt a 'business as usual' approach in planning for the enclaves;
- (c) non-governmental organisations and individuals had submitted sensible and workable solutions on planning controls for the CPEs but they had not been adequately addressed by the Board. For example, on the control of pesticides, the Government should not ignore the fact that the use of pesticides had been causing pollution to the sea. The failure to provide suitable control would not be in the interest of the public;
- (d) in the Court of Appeal judgment on the Hysan case, the Board had been criticised by the court for failing to inquire or investigate into the points raised by the representers, to consider the representation materials in respect of OZPs and to look into and weigh up options, and for copying the reasons of rejection canvassed by PlanD. In the instant case, a lot of the points had not been addressed by the Board adequately, including the failure to follow the Tai Long Wan approach in the current CPEs without valid reasons;
- (e) for Pak Lap, it was well known that the land had been sold to a development company. The intended development was not for villagers and the Board's decision might facilitate the abuse of the Small House Policy;
- (f) proper planning should be based on the needs and not demands of the villagers. However, there were no Small House needs stated in the paper but only Small House demands. He visited So Lo Pun in 1984 and the village had already been vacated at that time. There were existing house

sites in the village that could be redeveloped for meeting the Small House needs;

- (g) 'business as usual' or 'planning as usual' would cause countryside degradation. It was not credible for the government departments to consider that the current situation was acceptable. It was well known that agricultural activities had often been used as a cover for site formation and drainage works under the 'farm first, build later' tactics;
- (h) under the rule of law, there should be a fair process, fair consideration of evidence and application of logics in the process. These requirements had not been met in the present case;
- (i) the public should not continue to be misled in matters such as the toxic effects of pesticides and pollution effect of STS systems. Without detailed facts and assessments, the Board should act with utmost caution to prevent incremental environmental degradation in the CPEs; and
- (j) the Board was requested to read and consider the written submission of HH-F38 as most of the points in the submission had not been addressed with valid reasons.

[Total speaking time of Mr Ruy Barretto: 10 minutes]

SLP-C3672 - 黃素珍

SLP-R10762 - 黃富、黃冠英

71. Ms Wong So Chun, Jane said that she was also representing Mr Wong Fu (SLP-R10762) who was present in the meeting earlier but had left. She requested for a presentation time of 20 minutes. Her request was agreed by the Board.

72. Ms Wong showed a 3-minute video which covered the following main points:

- (a) although the villagers of So Lo Pun were forced to live elsewhere, their thoughts were always with the village. There was a strong desire amongst the villagers to revive the village to its glorious past;
- (b) in response to the designation of private land as “CA” or “GB”, there was a protest organised by villagers from So Lo Pun and various other villages. The slogans included ‘Withdraw the “CA”/“GB” Zone’ (「撤回 "CA"/"GB" 規劃」), ‘Return Farmland to Agriculture’ (「農地歸農地」), ‘Protect Our Homes’ (「保衛家園」) and ‘No Intrusion of Private Land’ (「私人土地、不容侵佔」);
- (c) footage showing clearance of vegetation and trees;
- (d) the Government should consult the villagers on nature conservation. Planning simply by restricting developments would not work; and
- (e) compensation should be given to villagers for designation of private land for conservation purpose.

[Professor Eddie C.M. Hui left the meeting at this point.]

73. With the aid of a Powerpoint presentation, Ms Wong made the following main points:

- (a) on 5.10.2014, there was a protest organised by villagers from So Lo Pun and various other villages to clear the wild grass and trees in So Lo Pun. The operation was to make way for rehabilitation of agricultural activities;
- (b) the villagers were very angry. Although they had submitted representations and comments in respect of the draft OZP and presented their views at the previous hearing meeting, their views and proposals on the So Lo Pun OZP were all rejected by the Board;

- (c) the villagers could only resort to actions to show their strong objection to the draft OZP. Their request was ‘Return Farmland to Agriculture’ (「農地歸農地」);
- (d) according to the general planning intention of So Lo Pun OZP, environmental protection had been given a higher priority than Small House development. This was in contravention of BL 105. Although the legal advice was that the OZP had not deprived the landowners of their property right and was not inconsistent with BL 6 and 105, the Government did not ‘protect’ the right of individuals to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property in accordance with the law. ‘No deprivation’ was not equal to ‘protect’;
- (e) in the So Lo Pun OZP, about 95% and 35% of the land zoned “CA” and “GB” respectively were private land, constituting over 50% of the total private land in the area. In a meeting with New Territories Heung Yee Kuk, a PlanD official was asked about the implementation of the “CA” and “GB” zones but no answer was given. Although there were initiatives for nature conservation under AFCD, such as management agreements and public-private partnership pilot schemes, both the Board and PlanD had not given due consideration to implement the conservation zones. The passive and restriction approach in planning controls could not be accepted by the villagers;
- (f) the Board was not planning but using an over-restrictive approach to limit the rights of landowners to use and dispose of their agricultural lots. There was problem with agricultural use. Although it was always permitted in the OZP, there were different restrictions in each land use zone. In the instant case, filling or excavation of land within the “V” (if there were potential adverse impacts on the natural environment), “GB” and “CA” zones required planning permission from the Board. For the “AGR” zone, although there were controls on filling or excavation of land, the planning intention was

totally different from other zones, i.e. *“this zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.”* This planning intention coincided with the wish of the villagers of So Lo Pun as well as other CPEs to rehabilitate agricultural activities in the villages. There were advance technologies to facilitate resumption of farming activities, and the resulting green environment should provide more breathing space for urban dwellers;

[Ms Julia M.K. Lau left the meeting temporarily at this point.]

- (g) there were exemptions of control in respect of filling or excavation of land within the “AGR” zone, including the laying of soil not exceeding 1.2m in thickness for cultivation. Such exemption was exactly what farmers needed in undertaking farming operation, and it was the reason why villagers insisted to rezone the farmland in “CA” and “GB” to “AGR” to avoid any misinterpretation;
- (h) advance technologies were available to resolve the sewage treatment and disposal problem. One such possible solution was the use of grout curtains to prevent seepage of wastewater into the soil;
- (i) village houses and the natural environment could co-exist in harmony. There were plenty of good examples in other countries, one of which was the ‘home stays’ in Taiwan. Hong Kong should make reference to the examples and consider provision of overnight holiday accommodation in villages, possibly under the concept of eco-village;
- (j) there were a number of representations submitted under the same name and over 6,000 representations submitted were anonymous. There were concerns that the representations were submitted by the same persons in order to boost the number and to exaggerate the ‘public interest’ in supporting their arguments;

- (k) the OZP offered no benefits to the villagers of So Lo Pun and could not be accepted. If the previous decisions were maintained, there would be strong opposition from the villagers of the CPEs and their protest actions would continue so as to express their dissatisfaction with the land use planning; and

- (l) in conclusion, the Board could not unilaterally change the land use of private agricultural land without the consent of the villagers. As shown in the case of 'Occupy Central' action, planning could not be implemented without the cooperation and support of the villagers. Apart from the operation in So Lo Pun, other protests were being planned. The next one would take place at Ping Chau and it would not be the last. The Government had the responsibility to protect the legal use and disposal of land owned by So Lo Pun villagers and should respect the wish of the villagers to practise agriculture in the re-established village.

[Total speaking time of Ms Wong So Chun, Jane: 20 minutes]

74. As the presentation from the further representers, representers, commenters and their representatives had been completed, the Chairman invited questions from Members.

75. The Vice-chairman said that the Board, in considering the three draft OZPs, had strived to strike a proper balance between conservation and development. Based on his observation on the rural areas, while there might be cases of over-developing and intentional destruction in the countryside, there were also examples of balanced developments in which villages existed in harmony with the natural environment. At this meeting, he heard submissions from green groups and environmentalists that development would inevitably generate pollution. He also heard submissions from villagers that restricting village development would result in their loss, both mentally and physically. Noting that the villagers had proposals to expand or rehabilitate the villages in order to meet the Small House demand, and that public sewage treatment facilities would not be made available for the three villages in the near future, the Vice-chairman asked the villagers of Hoi Ha, So Lo Pun and Pak Lap and their representatives to share their thoughts on how the natural environment could be protected when carrying out village developments.

76. Mr Kong Chee Cheung (representative of PL-F10 and PL-R10736) said that to minimise pollution on the environment, a sewage treatment facility using membrane bioreactor technology was proposed in Pak Lap to serve the existing and proposed village houses. Membrane bioreactor was not a new technology and had been applied in the sewage treatment for Lady Maclehole Holiday Camp which accommodated those people affected by SARS in 2003. The technology had advanced since then and the cost of constructing such a sewage treatment facility was not particularly high when compared with the traditional STS systems. The treated wastewater could also be reused by the villagers for cultivation or cleaning purposes. Mr Kong said that the concerned government departments should liaise with the villagers and provide suitable assistance to them on provision of environmentally friendly sewage treatment facilities. Examples of providing such facilities with government assistance were found in Lam Tsuen and Kau Lung Hang.

77. Mr Kong continued to say that village developments with suitably planned public facilities were generally appreciated by the public. There would not be insurmountable difficulty in installing environmentally friendly sewage treatment facilities in Hoi Ha. Provided that such facility was located on the lower grounds where collection of wastewater by gravity was permitted, the construction cost would not be particularly high. As for Pak Lap, the maximum design capacity of 120 houses for the proposed sewage treatment facility was worked out based on the number of existing village houses, approved Small House developments, and the 10-year Small House demand forecast for Pak Lap Village. Since the proposed sewage treatment facility would serve also the existing village houses and approved Small House developments, STS systems would no longer be required in Pak Lap. Based on a design capacity of 120 houses, the average capital cost and annual maintenance cost for the sewage treatment facility using membrane bioreactor technology would be about \$50,000 and \$2,500 per household respectively. The costs should be considered worthwhile by villagers given that the proposed sewage treatment plant was environmentally friendly and would be managed by professional companies. There would be economic and environmental benefits arising from the reuse of treated wastewater. In response to the Chairman's question as for whom Mr Kong's company worked for, Mr Kong said that his company had been helping villagers on planning and land matters under the instruction of the VR.

78. Ms Wong So Chun, Jane (SLP-C3672) said that urban dwellers might not be

familiar with the villagers' way of life. The removal of wild grass and trees in So Lo Pun was not meant to destroy the natural environment, as for farmers and villagers, it was only part of the necessary works to enable the resumption of farming operation. She said that some villages along Sha Tau Kok Road as well as some urban districts such as Sham Shui Po, Mong Kok and Tsuen Wan had been developed in a haphazard manner and were poorly managed. The Government should bear some responsibilities to improve their conditions as individual property owners would not have adequate resources to do so.

79. Ms Wong continued to say that So Lo Pun was an ideal location for implementing a pilot scheme of green development concept because no existing population would be affected. The planning process should allow opportunity for developing a new mindset to encourage village development to co-exist harmoniously with the natural environment. There should be cooperation between different parties in search for the optimal solutions. Unilateral stringent planning restrictions would not be an appropriate means to protect the natural environment. Mr Wong Hing Cheung (representative of SLP-F16, SLP-F21, SLP-R10739/SLP-C3670, SLP-C3675 and SLP-C3676) supplemented that if the Government took So Lo Pun as a test case for building a communal sewage treatment facility, the villagers would endeavour to cooperate. The Board should therefore persuade the Government to make it happen.

80. Mr Wong continued to say that due to their dissatisfaction with the planning process, villagers from various indigenous villages joined together and participated in the vegetation clearance operation in So Lo Pun on 5.10.2014. During the joint operation, only those vegetation surrounding the existing village houses had been cleared, which helped restore the original appearance of the village and paddy fields. The operation was not intended to destroy the natural environment to make way for development, and hence should not be perceived as a rude act nor 'destroy first, build later' action. Mr Wong said that since there was no water and electricity supplies in So Lo Pun, any Small House developments, even if approved by the Government, could not be implemented immediately. Nevertheless, the villagers should seek to protect their rights of using their land including those to build Small House developments and to restore the farmland for agricultural purpose. Since all private land in So Lo Pun was owned by the indigenous villagers, there should not be worries that the villagers would destroy their own village environment.

[Ms Julia M.K. Lau returned to join the meeting at this point.]

81. The Vice-chairman further asked the villagers and their representatives whether they had any proposal to integrate the concept of conservation into village development, with particular regard to the tree preservation aspect. Mr Wong Hing Cheung said that those rare species of trees in So Lo Pun, such as 土沉香, had already been felled by the 'tree cutting gangs'. All the trees felled during the villagers' joint operation on 5.10.2014 were only common species not worthy of conservation. These trees were located on private land and would have to be felled to restore the original condition of the farmland. The villagers' rights and obligation to manage the farmland inherited from their ancestors should be respected.

[Dr W.K. Yau left the meeting at this point.]

82. Ms Wong So Chun, Jane (SLP-C3672) said that trees and green fields were precious assets of the village which were appreciated by countryside lovers. The villagers would make efforts to preserve the natural environment during the re-establishment of So Lo Pun. She said that those trees felled during the operation on 5.10.2014 were not old or valuable trees as they only started to grow after the agricultural fields had become fallow. The big mature trees, including those growing from the inside of some ruined houses, were not affected by the operation. After clearing the trees and vegetation, the original landscape of the village and the paddy fields was visible again. Ms Wong also said that the villagers of So Lo Pun did not have a concrete development proposal at this stage as they had no expert knowledge on sewage treatment, tree preservation and village rehabilitation. Nonetheless, the villagers were always willing to communicate and cooperate with experts in relevant fields to help rehabilitate their village.

83. Mr Tsang Yuk On (SLP-R10740) said that it was the villagers' intention to develop the Sha Tau Kok area into a leisure tourism hub. However, such idea had been constrained by the Government's policies on Frontier Closed Areas and vehicle restrictions. As regards the joint operation in So Lo Pun, the ecological value of those trees felled was not high as they only grew up on the paddy fields after the villagers left So Lo Pun some 30 years ago. As demonstrated in the case of Lai Chi Wo, whilst the precious trees had been preserved, some trees on the fallow paddies had to be removed before farming operation could be practically resumed. The villagers of So Lo Pun had a strong sense of belonging to their home village and would treasure their own environment. Rehabilitation of agricultural activities

could be implemented through several means, including cooperation between villagers and non-governmental organisations/green groups, and by individual villagers who wanted to return to the village for living after retirement. In the Lai Chi Wo case, after rehabilitation of agricultural activities, the villagers started to refurbish their houses and gradually moved back to live in the village. However, in-situ redevelopment of existing village houses might not be able to meet the Small House demand due to the complex issues involved in landownership.

[Dr C.P. Lau returned to join the meeting at this point.]

84. Mr Kong Chee Cheung (representative of PL-F10 and PL-R10736) said that the villagers of Pak Lap wished to build Small Houses on the grassland in the middle of the Pak Lap area which was of low ecological value. Consideration would be given to transplanting those trees affected by the development in Pak Lap to the grassland as landscape feature of the Small Houses. A report was prepared in 2012 which proposed the appropriate arrangements for handling the water ferns found in Pak Lap.

85. In response to some speakers' concern on the validity of the large number of anonymous representations in respect of the three draft OZPs, the Chairman said that the Board would take into account the contents of the submissions. A Member said that for rehabilitation of village and agricultural activities to be sustainable, substantial resources in terms of labour and money would be required. This Member asked the So Lo Pun villagers on their views to sustain the rehabilitation, and what the discrepancies were between the vision of the villagers and the planning for the area as manifested by zonings on the draft OZP. Ms Wong So Chun, Jane, said that while the vision of So Lo Pun villagers had yet to be translated into a development proposal, the Government also had no proposal for the "CA" and "GB" zones designated in the OZP. It was therefore not fair to direct such a question to the villagers. She said that her two brothers, who had emigrated to the UK and returned to Hong Kong recently, had the intention to build holiday homes in So Lo Pun. The concept of holiday homes was very common in other countries such as Spain, where families spent weekends in their countryside villas which were virtually unoccupied during weekdays. The villagers would figure out the next course of action including a sustainable development plan for So Lo Pun. There was passion amongst villagers to re-establish So Lo Pun, which was important for any vision to be realised. Mr Wong Hing Cheung supplemented that if villagers were willing to fight for their own rights, there would still be a chance of success. Many of them would

also like to practice agriculture in the re-established village. Otherwise, their hopes would die down.

[Mr Stephen H.B. Yau left the meeting at this point.]

86. Noting that some further representers and representers had submitted further ecological information in respect of the Hoi Ha, So Lo Pun and Pak Lap areas, the Chairman asked AFCD's representatives whether the zonings of the FR sites were appropriate. Mr Cary P.H. Ho, SNC/S of AFCD, said that in advising PlanD during the preparation of the draft OZPs, AFCD had emphasised more on the preservation of habitats with high conservation value rather than on records of individual species or specimens of conservation interest. Notwithstanding that, important habitats such as native woodlands, riparian zones as well as wetland areas, which could provide suitable habitats supporting a variety of species, were already covered by conservation zonings, such as "CA", "CPA" and "GB(1)" in Hoi Ha for due protection. For example, the habitats of Chinese Pangolin, which were mainly associated with woodland areas, had been covered by conservation zonings. As for Pak Lap, the wooded areas at the periphery of the area formed a continuous stretch of well-established vegetation with those located in the adjoining Sai Kung East Country Park and were ecologically-linked to the natural habitats therein. These woodland areas had been covered by the "CA" zoning. Mr K.W. Cheung, SNC/N of AFCD, said that important habitats in So Lo Pun including the riparian zone of the EIS, mangrove and seagrass beds, reed ponds and freshwater marsh were covered by the "CA" zoning. The hillslopes adjoining Plover Cove Country Park mainly consisted of relatively undisturbed and young woodland interspersed with shrubby grassland developed from abandoned agricultural land after the villagers moved out of So Lo Pun. The "GB" zoning for those areas was therefore appropriate.

87. Noting that some further representers and representers were against Small House being resided by non-indigenous villagers and were therefore against the selling of Small Houses to non-indigenous villagers, the Chairman asked Mr David Newbery (HH-R10752) whether he was agreeable to informing the Board whether his family was living in a Small House in Hoi Ha. Mr Newbery said that he bought the Small House in Hoi Ha about 20 years ago from a lady. At that time, he had been in Hong Kong for only 18 months and did not know much about the Small House Policy. He did not approach any indigenous villager to build a Small House for him. Mr Newbery said that his knowledge on Small House Policy

was only obtained after he had bought the Small House. The Small House Policy was necessary to govern the grant of Small House rights to indigenous villagers. He therefore had no objection against those Small Houses genuinely built for indigenous villagers even though the houses were subsequently sold to non-indigenous villagers. Mr Newbery continued to say that his objection was against the abuse of the Small House Policy. It was perceived that in recent years, some developers had been assembling agricultural land around Hoi Ha Village and seeking to buy out the Small House rights of some descendants of indigenous villagers who were living overseas, with a view to building Small Houses and selling them to non-indigenous villagers. Such practice was an abuse of the Small House Policy. Any Small House development should be implemented fairly and properly under the Small House Policy. It was obvious that the Small House Policy was increasingly defective and given the increasing number of abuse, the demand for Small House development had become infinite.

88. The Chairman asked Mr Newbery if there was STS system in his Small House and how the system was managed and maintained. Mr Newbery said that the STS system of his house was located within 100m of the Hoi Ha SSSI, albeit relevant licences for the system had been granted by EPD and LandsD. He cleaned up the STS system regularly once in about 18 months and the pumping vehicle used a long pipe to reach the STS. He would be delighted to replace the STS system with a communal and environmentally friendly sewage treatment facility, if available. Mr Newbery also said that as a villager of Hoi Ha, he had the right to express concerns about the planning of his village. He had deep passion and knowledge about the village that he wanted to share them with others. He hoped that the village would be sustained for his next generation who had spent their entire life in Hoi Ha.

89. In response to the Chairman's enquiry on the role of Mr Kong Chee Cheung's company in Pak Lap Village regarding 120 Small Houses, Mr Kong said that although the Small House Policy was formulated for indigenous villagers, there were mechanisms under the policy to administer the assignment of Small Houses. Hence, there were many examples that non-indigenous villagers lived in Small Houses built for indigenous villagers. As for the new Small House developments to be built in Pak Lap, while he had no direct contact with the concerned indigenous villagers, he had been acting upon the instruction of the VR on the Small House grant application process.

90. Responding to the same question raised by the Chairman, Mr Thomas Tsang Ka

Kau (representative of SLP-R10736) said that he had deep roots in the New Territories and was working on behalf of the indigenous villagers but not any developers. He had been tendering advice to the VR and villagers of So Lo Pun regarding the future development of the village.

91. A Member said that there was a feeling of unease after watching the video that showed tree felling in So Lo Pun and learning that further protest would be carried out in other areas such as Ping Chau. This Member asked the villagers of So Lo Pun what the underlying objectives of these protest actions were. Ms Wong So Chun, Jane (SLP-C3672), said that the villagers had submitted their views regarding the planning of So Lo Pun in accordance with the plan-making procedure but their views and proposals were rejected by the Board. Hence, the villagers had resorted to protests and operations to express their dissatisfaction. Also, the possibility of applying for judicial review against the Board's decision would not be ruled out. Although urban dwellers would perceive the acts of vegetation clearance as a threat to the natural environment, those acts were actually necessary for resuming agricultural operation on the fallow farmland. The operation was not meant to be a wholesale clearance of trees in So Lo Pun. As a matter of fact, the village and the natural environment were treasured by the villagers, who would welcome advice from environmental and drainage experts to help rehabilitate their village. She also said that the sole intention of the villagers was to re-establish the village and to return and live in there. Recently, there were a lot of enhancement works to their ancestors' graves around the village, which proved that the village's proposal was not a project of private developers.

92. The Chairman asked AFCD's representatives to further elaborate on the ecological value of the proposed "GB(1)" zone in Hoi Ha. Mr Cary P.H. Ho said that the "GB(1)" area was located to the west of the village cluster in Hoi Ha and mainly occupied by patches of wetland and woodland developed from abandoned agricultural land. The woodland was relatively young (about 30 to 40 years of age) as compared to those located to the east of the village which were covered by "CA" zoning. The "GB(1)" zoning for the area was appropriate as it would give added protection to the woodland, wetland and small streams therein, and provide a buffer zone between the village and HHW.

93. At the invitation of the Chairman, Mr Tony Nip (HH-F39/SLP-F5/PL-F5) made the following main points:

- (a) it was uncertain whether the sewage treatment facility using membrane bioreactor technology would be more effective than the STS system. However, if such type of facility was to be adopted in Hoi Ha, So Lo Pun or Pak Lap, the requirement for such facility should be explicitly stipulated in the Notes of the concerned OZPs to provide adequate control;
- (b) even if membrane bioreactor technology was adopted, some sludge or solid waste would be produced during the sewage treatment process and their disposal would be necessary. Since there was no vehicular access to So Lo Pun and Pak Lap, it was unsure if the solid waste generated could be transported away through marine access. There would also be potentially high costs of management and maintenance associated with such type of sewage treatment facilities since the use of electric pumps and air pumps in long hours would be involved;
- (c) large-scale excavation and filling of land would not be required for genuine agricultural activities. The stipulation of land filling restrictions and exemption for the laying of soil for cultivation under the Remarks of “AGR” zones was originated from the She Shan Tsuen land filling case. AFCD had been consulted in deriving the exemption for the filling of soil with a thickness not exceeding 1.2m, which was considered adequate for most kinds of cultivation;
- (d) the impact of tree felling would depend on the affected tree species and habitats. As suggested by the Professional Commons, prior to finalisation of any zoning proposal, a comprehensive EIA should be conducted by independent consultant to assess the potential environmental impacts and propose mitigation measures, if necessary;
- (e) according to the provisions of the EIA Ordinance, only certain uses or developments within a conservation area were regarded as designated projects which should follow the statutory EIA process. Thus, the “CA” zoning was giving the highest level of protection for the environment;

- (f) the dry grassland in Pak Lap was previously wet agricultural land. It was the subject of unauthorised land excavation activities, against which planning enforcement action had been instigated; and
- (g) there was inconsistency in zoning woodlands in Hoi Ha and So Lo Pun. While relatively young woodlands (about 30 to 40 years of age) in Hoi Ha were zoned “GB(1)”, similar woodlands in So Lo Pun were zoned “GB”.

94. Mr Ruy Barretto (HH/SLP/PL-C386) said that the Government should not adopt a ‘business as usual’ attitude towards the planning of CPEs, which was not welcomed by both villagers and the general public. Positive solutions were available to improve the conditions of CPEs within the legal and planning frameworks. In the case of Lai Chi Wo, genuine revitalisation of farming activities had been carried out in an environmentally friendly manner under expert guidance from HKU and the Hong Kong Countryside Foundation. The Board had the power and ability to impose relevant planning restrictions to foster genuine farming activities with minimal potential environmental impacts, such that developers could not take advantage of the situation based on the ‘destroy first, build later’ approach. The Board should possess the vision to improve the planning of CPEs based on sound advice, detailed surveys and logical thinking.

95. A Member asked which government department was responsible for the construction of the public sewage treatment facility in Yung Shue O and whether there were similar plans and proposals for the Hoi Ha, So Lo Pun and Pak Lap areas. Mr C.W. Tse said that the communal sewage treatment facility in Yung Shue O was implemented by DSD. The Government would provide sewerage or sewage treatment facilities having regard to the population/number of houses in the village, availability of public sewers, as well as proximities to road access and government sewage treatment plants. The existing plans did not include providing public sewage treatment facilities in the three areas due to their remoteness and small population.

96. As Members had no further questions and the further representers, representers, commenters and their representatives had nothing to add, the Chairman said that the hearing procedure had been completed and the Board would deliberate on the FRs in their absence and would inform them of the Board’s decision in due course. The Chairman thanked the further

representers, representers, commenters and their representatives and the government representatives for attending the hearing. They all left the meeting at this point.

[The meeting was adjourned for a break of 15 minutes.]

[Professor S.C. Wong left and Ms Anita W.T. Ma arrived to join the meeting at this point]

97. The Chairman suggested that Agenda Items 4 and 5 should be considered first as the attendees of the items had already arrived. Members agreed.

98. The Secretary said that the applicant of the review application under Agenda Item 5 wrote to the Board on 20.11.2014 requesting for a deferment of the consideration of the review application. As the applicant had already arrived, the Chairman suggested and Members agreed to consider the deferment request first.

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No TPB/A/YL-NSW/204

Proposed Columbarium in “Government, Institution or Community” and “Undetermined” zones, Lots 879, 880 S.A ss1, 880 S.B ss1, 881 to 885, 889 RP(Part), 891(Part), 1318, 1326, 1344(Part) in D.D. 115 and Adjoining Government Land, Au Tau, Nam Sang Wai, Yuen Long (TPB Paper No. 9791)

[The meeting was conducted in Cantonese.]

99. The following Members had declared interests on the item:

Mr. Ivan C.S. Fu]	Having business dealing with Environ (HK)
Ms. Julia M.K. Lau]	Limited) (one of the consultants of the
Mr. Dominic K.K. Lam]	applicant)

100. Members noted that the above Members had no involvement in the application, and agreed that they should be allowed to stay in the meeting.

101. The Secretary briefed Members that after the Board issued the subject review paper on 14.11.2014, the applicant wrote to the Board on 20.11.2014 requesting for a deferral of consideration of the review application for three months. The applicant submitted that there were quite a lot of misunderstanding and discrepancies between his proposal and assessments and the departmental comments received. Members noted that upon the requests of the applicant, the review application had already been deferred three times. At the meeting on 6.12.2013 when the Board considered the applicant's third deferment request, Members agreed that no further deferment should be granted. Members were invited to consider whether the current further deferment request should be acceded to.

102. In response to Members' enquiries, the Secretary said that the applicant wrote to the Board the day before the meeting to request for the deferment and the applicant's letter, which was tabled at the meeting, did not set out the details and subject of the misunderstanding/discrepancies between his proposals and assessments and the departmental comments. Noting that the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33) required the applicant to provide reasonable grounds for the deferment, Members decided after discussion to invite the applicant to elaborate on his grounds for deferment before the Board.

103. The following applicant's representatives were invited to the meeting at this point.

Mr Ted Chan]	Applicant's representative
Mr Albert So]	

Question Session

104. The Chairman extended a welcome and invited the applicant's representatives to elaborate their reasons for applying for further deferment.

105. In response to the Chairman's question, Mr Ted Chan explained that when they

received the paper seven days before the meeting, they noted the comments/views from the Hospital Authority, and that the comments from the Commissioner of Police (C of P) in the paper did not tally with their understanding of the comments from C of P previously. They also noted that a land use review of Nam Sang Wai was mentioned in the paper which had not been known before. It was not fair that the applicant had to respond to these comments in such a short period of time, and more time should be allowed for the applicant to address the departmental comments. As the proposed columbarium was a new development, instead of an existing unauthorized use, there was no urgency for the Board to decide on the review application at this meeting.

106. As Members had no question to raise, the Chairman thanked the applicant's representatives for the elaboration and informed them that the Board would make a decision on the deferment request in their absence. The applicant's representatives left the meeting room at this point.

Deliberation Session

107. In response to Members' enquiries, the Secretary said that given the great public concern on columbarium use generally, the practice adopted by the Board was not to allow more than three deferments for consideration of such applications. Some Members considered that given that the subject review application was submitted on 1.12.2012, the applicant should have been in discussion with the concerned departments on the various issues involved in the last two years. They considered that, as the paper was issued seven days in advance, the applicant might, according to the standard practice, respond to the latest departmental views at the Board meeting and hence it was not necessary to defer consideration of the application until the applicant had addressed all the departmental comments. As such, there was neither strong justification nor sympathetic consideration for granting a further deferment for three months as requested by the applicant.

108. However, while considering that the TPB PG-No. 33 should be adhered to and there was no strong justification for granting the fourth deferment, some Members were of the view that for the benefit of doubt, a deferment of two weeks could be given to allow the applicant to clarify with the concerned departments on their latest comments. Moreover, it was only a proposal to build a columbarium and the columbarium had not been built. The

impact on the community was not there yet. After further deliberation, the Board decided to defer consideration of the review application to the next meeting to allow the applicant to clarify with the concerned departments on their comments on the review application.

[Dr C.P. Lau and Mr F.C. Chan left the meeting at this point.]

Tuen Mun and Yuen Long District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. TPB/A/YL-TT/334

Temporary Open Storage of Containers for Storage for a Period of 3 Years in “Agriculture” zone, Lots 490 to 493 in D.D. 117, Tai Tong, Yuen Long, New Territories

(TPB Paper No. 9790)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

109. The following representative of the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

Mr David C.M. Lam	-	District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YWL), PlanD
Mr Lam Hon Wah	-	Applicant

110. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/TM&YWL to brief Members on the review application.

111. With the aid of a Powerpoint presentation, Mr David C.M. Lam, DPO/TM&YWL, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary open storage of containers for a period of 3 years at the application site (the site) under s.16 of the Town Planning Ordinance (the Ordinance). The site fell within an area zoned “Agriculture” (“AGR”) on the approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16. The site was currently occupied for the applied use without valid planning permission. The site was not the subject of any previous planning application;

- (b) on 8.8.2014, the Rural and New Town Planning Committee (RNTPC) decided to reject the application and the reasons were:
 - (i) the development was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;

 - (ii) the development under application did not comply with Town Planning Board Guidelines No. 13E (TPB PG-No.13E) for Application for Open Storage and Port Back-up Uses under Section 16 of the Ordinance in that there was no previous planning approval granted to the site and there were adverse departmental comments and local objections against the application;

 - (iii) the applicant failed to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas; and

 - (iv) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such

applications would result in a general degradation of the rural environment of the area;

- (c) on 4.9.2014, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application. The applicant had not submitted any written representation in support of the review;
- (d) the site was accessible from Tai Tong Road to its southeast via a local track. Its surrounding areas were rural in character predominated by scattered residential structures, orchards, a workshop, an open storage yard, a vehicle park, fallow agricultural land, unused land, vacant land/ structures and a pond. The vehicle park, workshop and open storage yard in the subject site and adjoining "AGR" zones on the other side of Tai Tong Road were mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority (PA);
- (e) departmental comments – comments from the relevant government departments were detailed in paragraph 5 of the Paper and summarised below:
 - (i) the Director of Environmental Protection (DEP) did not support the application as in accordance with the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites", as there were sensitive receivers of residential uses in the vicinity, with the nearest ones located to the immediate north and south of the site, and environmental nuisance was expected. Notwithstanding that there was one substantiated odour complaint at the site received in 2012 which, after investigation, was confirmed to be foul smell related to the refuse and livestock waste accumulated at the nearby open channel, rather than the waste tyres at the site;

- (ii) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application. His recent site inspection revealed that the site was currently used for open storage purpose but active agricultural activities and agricultural infrastructures such as road access and water supply were found in the vicinity. The site was considered to have potential for agricultural rehabilitation;
 - (iii) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) had no comment on the revised drainage proposal from the drainage point of view and suggested that, should the application be approved, conditions requiring the submission of drainage proposal and implementation of drainage facilities should be imposed;
 - (iv) the District Lands Officer/Yuen Long, Lands Department advised that the private lots within the site were Old Schedule Agricultural Lots held under Block Government Lease under which no structures were allowed to be erected without prior approval from his office;
 - (v) the Commissioner for Transport advised that sufficient space should be provided within the site for manoeuvring of vehicles, and no medium and heavy goods vehicles, including container trailers, should access the site; and
 - (vi) other departments consulted had no adverse comment on or no objection to the review application;
- (f) similar application - there were three similar applications (No. A/YL-TT/83, 86 and 231) for open storage, warehouse and/or storage uses for a period of three years in areas located to the northeast of the site within the subject "AGR" zone. Application No. A/YL-TT/83 was rejected by the Board on review on 6.4.2001. Applications No.

A/YL-TT/ 86 and 231 were rejected by the RNTPC on 13.10.2000 and 24.10.2008 respectively;

- (g) public comments - no public comment was received during the statutory public inspection period of the review application. Two public comments were received during the s.16 stage raising concerns on/objection to the application mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; no traffic or environmental impact assessments had been submitted; and agricultural land should be conserved; and

- (h) PlanD’s view – the applicant had not submitted any written representation to support the review application. As there had been no material change in the planning circumstances since the consideration of the application by the RNTPC on 8.8.2014, the planning considerations and assessments remained valid and PlanD did not support the application. The planning consideration and assessment as in paragraph 7 of the Paper were summarised below:
 - (i) the development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard good quality agricultural land for agricultural purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. In this regard, DAFC maintained his view of not supporting the review application from the agricultural point of view as the site was considered as having high potential for agricultural rehabilitation and there were active agricultural activities and agricultural infrastructures in the vicinity, such as road access and water supply. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;

 - (ii) the development was also incompatible with the surrounding areas which were predominantly rural in character with scattered

residential structures, orchards, fallow agricultural land, unused land, vacant land/structures and a pond. While there were some open storage, workshop and vehicle park uses in the vicinity, they were suspected unauthorized developments subject to enforcement action taken by the PA. Besides, the site was located in close proximity to an area zoned “Green Belt” (“GB”) to its further east;

- (iii) the site fell within Category 3 areas under TPB PG-No. 13E where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. However, there was no previous approval granted at the site for open storage use and there were adverse comments from the relevant departments and local objections against the application. DEP also maintained his view of not supporting the review application as there were sensitive receivers of residential uses in the vicinity, with the nearest ones located about 5m to 10m to the immediate north and south of the site, and environmental nuisance was expected. On the drainage aspect, CE/MN of DSD had requested the applicant to submit a drainage proposal to demonstrate that the development would not generate adverse drainage impact on the adjacent areas, but no submission was made by the applicant at the s.16 application or s.17 review stages to address the departmental concern;
- (iv) in view of the above, the applicant failed to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas; and
- (v) although there were similar applications for temporary open storage, warehouse and/or storage uses within the subject “AGR” zone, these applications were all rejected by the RNTPC or by the Board. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “AGR” zone, causing degradation to the surrounding rural

environment. In view of the above and given that there was no change in the planning circumstances, the current application did not warrant sympathetic consideration.

112. The Secretary informed Members that the applicant had submitted supplementary information to the Board at the meeting which was tabled for Members' consideration. The Chairman then invited the applicant to elaborate on his application. Mr Lam Hon Wah made the following main points:

- (a) the site was owned by him and had been vacant for more than 30 years. The areas around the upper stream were occupied by a number of workshops, food factories, and storage of heavy equipment and others. The contaminated sewage from these workshops/factories was discharged to the surrounding streams which could not be used to irrigate the land for agricultural purpose. He had prepared two water quality tests and submitted to the Board at this meeting, one was conducted by a Hong Kong company while the other was by a company in Guangdong;
- (b) in the past 30 years, the site was often used for dumping and burning rubbish. In 2012, he had to spend money to remove the car tyres dumped at the site without his knowledge and to transport them to the landfill for disposal. He had to fence off his land to prevent further dumping. The foul smell complaint received by DEP came from the sewers and the refuse collection point in the vicinity but not his site. He had connected the drainage network at the site to the two soakaway pits provided by the Government. He had even painted the fence green and preserve a tree on the site which should be visually more pleasant than the workshops in the surrounding;
- (c) on the two public comments from the Kadoorie Farm & Botanic Garden Corporation and Designing Hong Kong Limited, he considered that these commenters had not been to the site and did not know that within 1km of the site, there were no active agricultural activities, but illegal soil dumping, some up to 3m high, and fallow fish ponds. The existing heavy vehicle

repair/other workshops were less than 5 m to the “GB” zone while the site was more than 55m away from the “GB” zone;

- (d) the three previous applications rejected by the Board were still used as workshops at present. The orchard shown on the plan and aerial photograph in the paper no longer existed and the site had been used as recycling workshop for more than 10 years. The Board should not make a decision based on incorrect information;
- (e) the applied use was only for temporary open storage of containers for storing his furniture and miscellaneous household items, spirit/ ancestral tablets and equipment/materials for the workers while his house was being redeveloped, and would be removed after completion of the redevelopment. There would not be any water/electricity supply and no pollution would be generated. If a temporary permission for three years was not allowed, he could accept shortening the permission to one year, and the Government could take enforcement action against him if he violated any approval conditions of the permission; and
- (f) there were a number of unauthorized developments in the vicinity of the site and no enforcement actions were taken. Without a report from the concerned government departments on the water quality of the adjacent streams, he considered the site could not be used for the agriculture purpose. In such case, he queried what his land could be used for if the applied use was not permitted.

113. The Chairman enquired whether the applicant needed such a large piece of land for storing his furniture and workers’ equipment while rebuilding his house. Mr Lam Hon Wah replied that his house being developed was a small house and the site was required to accommodate containers for storing spirit/ancestral tablets which his family would visit daily, his furniture and construction equipment for the workers. The site was the only land available to him in the vicinity.

114. As the applicant had no further comment to make and Members had no further

question to raise, the Chairman informed the applicant that the hearing procedures for the review had been completed and the Board would further deliberate on the application in his absence and inform him of the Board's decision in due course. The Chairman thanked the applicant and DPO/TM&YLW for attending the meeting. They left the meeting at this point.

Deliberation Session

115. Members had doubt that the applicant needed such a big site for storing his belongings while rebuilding his small house. Rebuilding of small houses in the New Territories was not uncommon and the need for such a big site for storage was not apparent. Members considered that there was no strong justification to support the review application. Moreover, there was no change in the planning circumstances since the consideration of the subject application by the RNTPC. Members also noted that the workshops in the surrounding of the site were unauthorized developments subject to enforcement action taken by the PA.

116. A Member noted that comparing Plan R-3 and Plan A-3 of the paper, vegetation clearance and soil dumping were observed in extensive areas. The meeting agreed to refer the case to relevant departments for investigation.

117. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the development was not in line with the planning intention of the “Agriculture” (“AGR”) zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the development under application does not comply with Town Planning Board Guidelines No. 13E (TPB PG-No.13E) for Application for Open

Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance in that there was no previous planning approval granted to the site and there were adverse departmental comments and local objections against the application;

- (c) the applicant fails to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.”

[Ms Anita W.T. Ma left the meeting at this point.]

Agenda Item 3 (Continued)

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Further Representations on Proposed Amendments to the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1 Arising from Consideration of Representations and Comments on the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1

Consideration of Further Representations on Proposed Amendment to the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1 Arising from the Consideration of Representations and Comments on the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1

Consideration of Further Representations on Proposed Amendment to the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1 Arising from Consideration of Representations and Comments on the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1

(TPB Papers No. 9786, 9787 and 9788)

[The meeting was conducted in Cantonese and English]

Deliberation

[Closed Meeting]

118. The Chairman said that the Board should consider all the grounds and proposals of the further representers/representers/commenters, both in the written submissions and oral submissions, and decide whether to confirm or vary the propose amendment(s) to the three draft OZPs. At his invitation, the Secretary recapitulated the main points made in the written and oral submissions including those made in the Q & A session. Members noted that most of the issues had previously been considered and deliberated by the Board during the consideration of the original representations and comments in respect of the three draft OZPs. Members then went through the issues pertaining to the three OZPs as raised by the further representers/representers/commenters in their written and/or oral submissions.

119. Members noted that the indigenous villagers' right to build Small Houses should be respected and "V" zones had been designated on the three OZPs to cater for the Small House developments. The boundaries of the "V" zones were drawn up after considering the 'VE', local topography, settlement pattern, Small House demand forecast, areas of ecological importance, site-specific characteristics of individual CPEs and other relevant considerations. The Board agreed that in designating the "V" zones, an incremental approach in meeting the Small House demands should be adopted where appropriate taking into account all relevant considerations to minimise the potential adverse impacts on the natural environment. In effect, the size of the "V" zones had been reduced to include only the existing village settlements and the adjoining suitable land as shown on the proposed amendments to the three OZPs.

120. Members recapitulated the elaboration on STS systems and percolation test requirements by the government representatives and Mr C.W. Tse of EPD, and noted that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zones would not cause unacceptable impacts on the surrounding environment. Provided that the STS system was built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer adequate protection to the environment.

121. Regarding the quest for a cumulative impact assessment of the Small House developments, Members considered that when considering the three draft OZPs, the Board had already taken into account all relevant planning considerations, including expert advice from the relevant government departments and public views. Members noted that the relevant government departments had no objection to the "V" zone on the draft OZPs and considered

that satisfactory response was given to their enquiries including those related to sewage and ecology.

122. As for the applicability of planning intention and controls of the Tai Long Wan OZP to the three subject CPEs, the Board reaffirmed their view that each CPE should be considered based on the circumstances and characteristics of individual areas. The imposition of more stringent planning control in the Tai Long Wan OZP was mainly based on the consideration that the village settlements in Tai Long Wan were well-preserved and of high heritage value. To ensure that new NTEH/Small House development would be in harmony with the existing historical village houses and would not affect the integrity of the existing village setting in Tai Long Wan, planning permission was required for new NTEH developments, and for any demolition of or any addition, alteration and/or modification to or redevelopment of an existing building within the “V” zone. Members agreed that there was no historic village of heritage significance in the three subject OZPs and there were no exceptional circumstances that warranted adopting a more stringent planning control on new NTEH/Small House developments within the “V” zones.

123. On the alleged contravention of the Basic Law, Members noted that the building lots were covered by “V” zone, in which ‘House (NTEH)’ was always permitted. As for agricultural lots, ‘Agricultural Use’ in general was always permitted on land within the boundary of the draft OZPs. Therefore, there was no deprivation of landowners’ rights in using their building and agricultural lots. According to the legal advice previously obtained, the imposition of the planning controls in OZPs would not be inconsistent with Articles 6, 40 and 105 of the Basic Law.

124. Members then went through in detail the grounds and proposals as raised by the further representers/representers/commenters in respect of individual draft OZPs.

Hoi Ha OZP

125. At the invitation of the Chairman, the Secretary recapitulated the views and proposals in respect of the draft Hoi Ha OZP as raised by the further representers/representers/commenters in their written and/or oral submissions. Members noted that some of the views and proposals were not directly related to the proposed

amendments to the draft Hoi Ha OZP (i.e. to rezone the area to the west of the existing village cluster of Hoi Ha from “GB” and “V” to “GB(1)” (proposed Amendment Items A and B)) gazetted on 25.7.2014. These views included incorporating Hoi Ha into country park; removing ‘Eating Place’ and other polluting uses from Column 1 of the “V” zone; amending the boundaries of “V” and “CPA” zones to widen the buffer zone from the Spring High Tide; avoiding further Small House developments and provision of septic tanks at the north of the old village houses; inaccurate or misleading information in respect of survey maps, delineation of the HWM and boundary of the HHWMP; designating Hoi Ha Village as “CDA”; offering general comments on environmental conservation of the area; failures in the hearing process/procedure of the representations and comments; and issues concerning BCL.

Appropriateness of “GB(1)” zone

126. The Secretary said that in respect of the proposed “GB(1)” zone, the villagers objected to the zoning and proposed to expand the “V” zone for Small House development, while the green groups and environmentalists considered that the “GB(1)” zone was inadequate in protecting the natural environment. They proposed to rezone land covered by “GB(1)” to “CPA” or “CA” to enhance protection of the natural environment and to transfer ‘Agricultural Use’ from Column 1 to Column 2 under the “GB(1)” zone with a view to preventing “destroy first, build later” activities or minimising adverse environmental impacts.

127. With the aid of the visualiser, the Secretary referred to the Notes of the “GB” and “GB(1)” zones and said that the proposed “GB(1)” zone was intended to provide a higher degree of protection to the woodlands and wet agricultural land to the west of the village cluster of Hoi Ha. Whilst flexibility had been allowed for some necessary uses such as ‘Burial Ground’ and ‘Rural Committee/Village Office’ to cater for the needs of indigenous and local villagers, only developments that were needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area or essential infrastructure projects with overriding public interest might be permitted. Whilst redevelopment of NTEH was permissible on application to the Board, no new Small Houses were permitted in the “GB(1)” zone.

128. In response to the question of the Vice-chairman, the Secretary said that subsequent to the proposed amendments, the “V” zone in Hoi Ha had an area of about 1.95 ha,

with about 1.02 ha of land available that could accommodate 40 Small Houses, which could meet about 40% of the forecast Small House demand. The Vice-chairman said that the crux of the issue was whether a proper balance had been struck between development and nature conservation.

129. A Member said that the views and proposals raised by the further representers, representers and commenters in respect of the proposed amendments were similar to those considered by the Board during the consideration of representations and comments. With the proposed amendments incorporated, the draft Hoi Ha OZP had achieved a good balance between development and nature conservation. The Member considered that no strong justifications had been submitted by the further representers, representers and commenters for a departure from the Board's previous decision and that the proposed amendments to the draft Hoi Ha OZP should not be varied. Another Member agreed.

130. A Member asked whether Mr Tony Nip's suggestion to stipulate in the Notes of the OZPs the requirement for sewage treatment facilities using membrane bioreactor technology in Hoi Ha was practicable. Members considered that since that type of sewage treatment facility was a communal facility, an economy of scale was needed to be achieved for its implementation. The imposition of such a requirement in the OZP might therefore be unfair and impractical for an individual Small House. Besides, there was already an established mechanism for imposing the required sewage requirement in the Small House application process. Members agreed that it would not be appropriate to specify a particular type of sewage treatment facility in the OZP. However, outside of the zoning exercise, DSD should be requested to consider providing a public sewage treatment plant in Hoi Ha having regard to its popularity as a tourist spot and an education centre, and proximity to HHWMP which was of ecological significance.

131. Another Member said that in view of the ecological importance of HHWMP, LandsD and EPD should be reminded of the need to ensure that any Small House development would be in compliance with the relevant guidelines and requirements on the STS system during the processing of Small House grant applications. That was noted by Ms Linn of LandsD and Mr Tse of EPD at the meeting.

132. On the availability of a public sewage treatment facility, Mr C.W. Tse said that

taking into account the resource availability and the relatively small population in Hoi Ha, the provision of public sewage treatment facilities in Hoi Ha could not be accorded with high priority under the prevailing policy. A public sewage treatment facility was provided for Yung Shue O because the population and number of houses at the time were much higher than Hoi Ha. In view of the issues raised by some representers on the percolation test during the consideration of representations and comments, EPD had discussed with LandsD and it was agreed that the certified percolation test results should be submitted to LandsD at the Small House grant application stage, and subject to scrutiny by the concerned government departments including EPD. Heung Yee Kuk had been consulted on the revised procedure which would help guard against potential abuse of the certification system. Mr Tse also said that if the percolation test result showed that the proposed location was unacceptable, the Small House applicant would have to identify an alternative location for the STS system, or adopt other feasible means of sewage treatment, such as sewage treatment facilities using membrane bioreactor technology as suggested by some further representers' representatives. EPD would carefully examine the feasibility and acceptability of such sewage treatment proposals in collaboration with LandsD.

133. Ms Bernadette H.H. Linn said that the revised procedure was intended to provide more stringent control on the sewage treatment and disposal arrangements for Small House developments before any actual impact on the environment had taken place. LandsD would diligently liaise with the concerned government departments to ensure that all relevant requirements, including the arrangement of sewage treatment and disposal, had been satisfactorily complied with.

134. The Meeting then considered whether it would be appropriate to rezone the entire "GB(1)" or only its eastern part adjoining the "V" zone to "GB", noting that planning application for new NTEHs would not be entertained within the "GB(1)" even if the sites were located close or straddling the "V" zone.

135. A Member considered that the current planning in Hoi Ha had already achieved a proper balance between village development and nature conservation. Given the significance of Hoi Ha as an ecological, educational and tourism asset and considering the potential adverse impact on water quality, any proposed increase in Small House developments, be they provided through further expansion of the "V" zone or planning application within the "GB" zone,

should not be permitted in Hoi Ha. This Member said that AFCD as the management authority of HHWMP should keep close monitoring of the water quality, and take appropriate measures to guard against any possible degradation. In this regard, the need to provide a public sewage treatment plant in Hoi Ha should also be considered by AFCD.

136. Mr C.W. Tse said that the quality of the main water body of HHWMP was measured as 'excellent' by AFCD. This showed that the discharges from the existing Small Houses had not resulted in major impacts to the main water body of the Marine Park, compared to the carrying capacity. It was not uncommon that *E. coli* was found in areas along the shoreline due to general human and animal activities. Even in areas already served by public sewerage and sewage treatment facilities, elevated levels of *E. coli* were commonly found. Provided that the STS system was built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer the protection required to the nearby environment.

137. Ms Bernadette H.H. Linn said that in determining the appropriateness of "GB(1)" zone, the ecological and conservation values of the site should also be considered. The Secretary recapitulated that according to AFCD, the subject area comprised mainly patches of wetland and some young woodland developed from abandoned agricultural land, and the "GB(1)" zoning was considered appropriate from the nature conservation perspective. On the other hand, the green groups had proposed to rezone the subject area to "CA" or "CPA" or removing some uses under Column 1 for added protection.

138. The Vice-chairman said that though the primary planning intention for the CPEs should be for nature conservation, the indigenous villagers' Small House rights should be duly respected and could not be totally neglected. The crux of the issue was whether a proper balance had been struck between development and nature conservation, so that villagers and the natural environment could co-exist in harmony. While the need to protect the Hoi Ha area was indisputable, an over-restrictive approach might attract unnecessary opposition from the rural sector.

139. Mr C.W. Tse said that as pointed out in TPB Paper No. 9786, the "GB(1)" zone was intended to provide a higher degree of protection to the woodland and wet agricultural land in the area. According to the previous discussion during consideration of the representations

and comments, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted, and based on this approach and in view of the lack of infrastructural facilities, the Board decided to rezone the subject area from “V” and “GB” to “GB(1)”. The sewage treatment and disposal requirements were not the determining factors.

140. A Member said that land was still available within the “V” zone for accommodating 40 new Small House developments to meet the Small House demand. Any Small House developments should be confined within the “V” zone.

141. A Member said that the designation of the “GB(1)” zone was to recognise the conservation value of the subject area including the natural stream leading to HHW, while respecting the existing building right for redevelopment. Following an incremental approach, village development should first be confined within the “V” zone. If there were strong justifications in the future such as feasible sewage treatment method, expansion of the “V” zone to the adjoining areas might be considered. In this regard, no new information had been provided by the further representers to justify for a departure from the Board’s previous decision. Another Member agreed.

142. The Vice-chairman said that the discussion should focus on whether the ecological value of the subject area warranted a “GB(1)” or “GB” zoning. The Chairman said that if the “V” zone became fully developed in the future and there was a genuine need for more Small House development, it was recognised by the Board that flexibility had been provided under the rezoning application system to expand the “V” zone. In this regard, the subject area would be a possible expansion area of the “V” zone.

143. By referring to Plan FH-6 of TPB Paper No. 9786, Mr K.K. Ling said that in topographical terms, there was distinct difference between the land zoned “V” and “GB(1)”, with the former on relatively dry and high ground whilst the latter on lower ground and more prone to water-logging.

144. The Chairman said that a hybrid option would be to rezone the eastern part of the “GB(1)” to “GB”, possibly following the existing stream as the demarcation boundary. Mr K.K. Ling said that more detailed on-site survey might be required to ascertain the zoning

boundary to take forward this option. The Secretary supplemented that there was insufficient information for the time being to justify the stream as zoning boundary.

145. A Member said that it was indisputable that the HHWMP was of high ecological value and the natural stream flowing into HHW needed higher protection, and any development should be confined within the “V” zone. The “GB(1)” zoning was therefore considered appropriate and should be maintained in order not give false hope to the villagers. As no new evidence had been provided by the further representers to justify the proposed rezoning of the “GB(1)” to “GB”, the Board’s previous decision and the proposed amendments should be maintained. Members also agreed that there was no justification to raise the “GB(1)” zoning to a tighter conservation zoning.

Transfer of ‘Agricultural Use’ to Column 2 of “GB(1)” zone

146. As regards some further representers’ proposal to transfer ‘Agricultural Use’ from Column 1 to Column 2 of the “GB(1)” zone, Mr K.K. Ling said that to respect the owners’ right under the land lease, agricultural use was always permitted on agricultural lots within all zones on the Hoi Ha OZP. As AFCD commented that all pesticides registered under the Pesticides Ordinance Cap.133 were safe to use if applied according to the label directions, and the control of pesticide use was not under the purview of the Board, there were no strong justifications to transfer ‘Agricultural Use’ from Column 1 to Column 2 of the “GB(1)” zone. Members agreed.

Conclusion

147. After further discussion, the Chairman summed up Members’ discussion that proposed Amendment Items A and B to rezone the area to the west of the existing village cluster of Hoi Ha from “GB” and “V” to “GB(1)” respectively were considered appropriate to give added protection to the existing natural environment including the woodland, wetland, stream and HHW. An incremental approach should be adopted in the designation of “V” zone to meet the Small House demand. There was neither strong justification nor change in planning circumstances for a departure from the Board’s previous decision.

Decision

148. After further deliberation, Members decided to amend the draft Hoi Ha OZP No. S/NE-HH/1 by the proposed Amendment Items A and B. In accordance with section 6H of the TPO, the draft Hoi Ha OZP No. S/NE-HH/1 should thereafter be read as including the proposed amendments. The amendments would be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft Hoi Ha OZP under section 9 of the TPO.

149. Members then went through the reasons for not upholding the FRs and not to amend the draft Hoi Ha OZP to meet the FRs as detailed in paragraph 5.2 of TPB Paper No. 9786 and considered that they were appropriate.

FRs No. F1 to F20, F33 to F35, F38 to F45 and F47 to F51

150. After deliberation, the Board agreed to note the supporting views of FRs No. F1 to F20 and F42 on proposed Amendment Items A and B to the draft Hoi Ha OZP No. S/NE-HH/1.

151. The Board also decided not to uphold FRs No. F33 to F35, F38 to F41, F43 to F45 and F47 to F51, and the remaining part of FRs No. F3 to F20 and F42 for the following reasons:

Designation of “V” and “GB(1)” zones

(F3 to F5, F7 to F20, F33 to F35, F38 to F45 and F47)

“(a) in order to minimise the adverse impacts on the natural environment, an incremental approach for designating the “Village Type Development” (“V”) zone for Small House development should be adopted to confine Small House developments at suitable locations within the village. Based on it and in view of the lack of infrastructural facilities in Hoi Ha and the need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers, the rezoning of the area to the west of the existing village cluster from “V” and “Green Belt” (“GB”) to “GB(1)” is

appropriate;

- (b) the “GB(1)” zone is intended to provide a higher degree of protection to the concerned woodland and wet agricultural land and at the same time will allow flexibility for some necessary uses to cater for the needs of local villagers. Only developments that are needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area or essential infrastructure projects with overriding public interest may be permitted. While rebuilding of New Territories Exempted House (NTEH) and replacement of an existing domestic structure by a NTEH are permitted, no new Small Houses are permitted in this zone;
- (c) the “GB(1)” area mainly comprises patches of wetland and some young woodland developed from abandoned agricultural land. The proposed rezoning of the “GB(1)” area to “Conservation Area” or “Coastal Protection Area” is inappropriate;
- (d) taking into account all the relevant planning considerations, expert advice from concerned government departments, and views from relevant stakeholders, the draft Hoi Ha OZP incorporating the proposed amendments could strike a balance between enhancing nature conservation of the Hoi Ha area and meeting the needs of villagers for Small House development;

Adverse impacts of Small House development on surrounding environment

(F4, F5, F7 to F20, F38 to F41, F44 and F48)

- (e) the Lands Department, when processing Small House grant applications, will consult concerned government departments to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. There is sufficient control in the current administrative system to ensure that individual Small House development within the “V” zone would not entail unacceptable impacts on the surrounding environment;

Notes of “GB(1)” zone (F4, F7 to F20, F38, F45 and F47)

- (f) planning permission from the Town Planning Board (the Board) is required for any works relating to diversion of streams, filling of land/pond or excavation of land, which may cause adverse impacts on the natural environment. There is no strong justification for imposing more stringent control on ‘Agricultural Use’ within the “GB(1)” zone; and

Other views not directly related to the proposed amendments

(F3, F4, F6 to F20, F38 to F45, F47 to F51)

- (g) these views are not directly related to the proposed amendments and are similar to those views made in the original representations/comments, which have already been considered by the Board. The view on the failures in the representation hearing process/procedure is not relevant to the proposed amendments.”

So Lo Pun OZP

152. At the invitation of the Chairman, the Secretary recapitulated the views and proposals in respect of the draft So Lo Pun OZP as raised by the further representers/representers/commenters in their written and/or oral submissions. Members noted that some of the views and proposals were not directly related to the proposed amendment to the draft So Lo Pun OZP (i.e. to rezone the two pieces of land at the north-eastern end and south-western end of the “V” zone to “GB” (proposed Amendment Item A)) gazetted on 25.7.2014. These views included incorporating So Lo Pun into country park; amending the Notes of the draft OZP for more stringent planning control; objecting to the “CA” zone; failures in the hearing process/procedure of the representations and comments; and issues relating to BCL.

153. The Secretary said that in respect of the proposed amendment to the draft OZP, the requests of the villagers were mainly twofold, i.e. to revert the size of the “V” zone to that shown on the draft So Lo Pun OZP No. S/NE-SLP/1 (i.e. 4.12 ha), and to zone the agricultural

lots for agricultural use. As for the green groups and environmentalists, their grounds of FRs were mainly related to the excessive size of the “V” zone and the associated environmental impacts, as well as the adequacy of “GB” zoning in protecting the natural environment.

Reverting the FR site to “V” zone

154. The Chairman said that the “V” zone boundary on the So Lo Pun OZP had been delineated taking into account a number of factors including the ‘VE’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance and site-specific characteristics. Under the current circumstances and based on the incremental approach, it would be more reasonable to confine the “V” zone to the existing village settlements and the adjoining suitable land.

155. Members noted that according to the previous discussion during consideration of the representations and comments, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted, and based on this approach and in view of the lack of infrastructural facilities in So Lo Pun, the Board decided to rezone the FR site from “V” to “GB”.

156. A Member said that land was still available within the “V” zone for accommodating 68 new Small House developments to meet the Small House demand. Any Small House developments should be confined within the “V” zone. Members generally noted that based on the incremental approach, the “V” zone should not be further expanded at this stage.

Rehabilitation of Agricultural Activities

157. Mr K.K. Ling said that ‘Agricultural Use’ was always permitted within the “GB”, “GB(1)” and “CA” zones. While any filling and excavation of land required planning permission within these zones, ploughing and soil laying activities associated with agricultural operation were generally permitted and no planning permission was required. As for “AGR” zone, the Remarks of the Notes specified that planning permission would not be required for land filling for the laying of soil not exceeding 1.2m in thickness for cultivation, or construction of agricultural structure with prior written approval issued by LandsD. Mr Ling

said that the farmland in So Lo Pun was mainly located around the village and zoned “GB” and “CA”. The draft OZP would have no adverse impact on agricultural activities in So Lo Pun. Rehabilitation of agricultural activities, if any, should be encouraged in the areas adjoining the village in order to minimise the possible impacts on the natural environment.

158. The Chairman said that given the villagers’ strong desire for agricultural rehabilitation on their agricultural lots, consideration might be given to rezoning the “GB” area to the immediate north-east of the So Lo Pun village, which consisted of some fallow agricultural land located along the footpath leading to the pier, to “AGR”.

159. A Member said that based on the submissions of the villagers, the intended scale of agricultural activities to be resumed in So Lo Pun did not appear to be large. Since ‘Agricultural Use’ was always permitted within all zones, it might not be necessary to rezone the said “GB” area to “AGR”.

160. By referring to Plans FH-3 and FH-4 of TPB Paper No. 9787, the Vice-chairman said that the “GB” area to the north-east of the “V” zone was mainly fallow agricultural land covered by grass and shrubs interspersed with trees. Consideration could be given as to whether this area warranted a “GB” zoning, or otherwise. As the subject area was generally flat and located close to the footpath, it might have potential for rehabilitation for cultivation. He said that rezoning the subject area to “AGR” might encourage the revitalisation of village and achieve a more balanced development, and would have no implication on the “V” zone, while adhering to the incremental approach for Small House development. The laying of soil up to 1.2m in thickness, as permitted within the “AGR” zone, was necessary for cultivation of certain kinds of produce such as radish. In view of the above, he supported the suggestion of rezoning of the “GB” area to “AGR”.

161. With the aid of the visualiser, the Secretary referred to the Notes of the “GB” and “AGR” zones and said that ‘Agricultural Use’ was always permitted in both zones, and the Remarks of the Notes for the “AGR” zone had specified that planning permission would not be required for land filling for the laying of soil not exceeding 1.2m in thickness for cultivation, or construction of agricultural structure with prior written approval issued by the LandsD.

162. Noting that ‘Agricultural Use’ was always permitted within the “GB” zone,

another Member said that if genuine agricultural activities were to be undertaken, rezoning the subject area from “GB” to “AGR” should not have any additional impact on the environment. The rezoning to “AGR” could achieve a more balanced development and respond positively to the villagers’ request for designating agricultural land as “AGR”. This Member supported the proposed rezoning of the “GB” area to “AGR”.

163. A Member said that noting the different restrictions in “GB” and “AGR” zones on agricultural use, and the strong desire of the villagers to designate agricultural lots for agricultural use, it was considered reasonable to rezone the subject “GB” area to “AGR”.

164. A Member said that since the “GB” area to the north-east of the “V” zone was located closer to the sea, rezoning it to “AGR” might have some impact on the marine environment. Mr K.K. Ling said that the “GB” in the north-eastern part was situated next to an abandoned fishpond and Kat O Hoi was some further distance away to the north. As the two “GB” areas adjoining the “V” zone were fallow agricultural land, both areas would be suitable for cultivation purpose. However, some further representers and representers might consider it easier to obtain planning permission for Small House development within the “AGR” zone. Members generally considered that any proposed Small House development within the said area, if rezoned to “AGR”, should not be permitted unless land available within the “V” zone had been used up. Members considered that any such requests would be considered by the Board on a case by case basis based on individual merits and that this safeguard would adequately address the concern.

165. The Vice-chairman said that since ‘Agricultural Use’ was always permitted in all zones on the draft OZP and considering the ecological importance of So Lo Pun as a whole, it might not be appropriate to rezone both “GB” areas under the proposed Amendment Item A to “AGR”. Compared with the south-western portion, the north-eastern portion of the two “GB” areas was generally flat and located closer to the marine access and hence it might be more appropriate for rezoning this portion to “AGR”.

166. Ms Bernadette H.H. Linn said that ‘Agricultural Use’ and ‘On-farm Domestic Structures’ were always permitted within both the “GB” and “AGR” zones. Even though rehabilitation of agricultural activities were found acceptable at the two “GB” areas adjoining the “V” zone, the Board should consider whether rezoning them to “AGR” was appropriate

taking into account other relevant considerations including its implications on nature conservation and the natural environment, noting that some further representers and representers considered that the “AGR” zoning was more lenient than “GB” in terms of development control.

167. Another Member said that since ‘Agricultural Use’ was permitted in all zones on the draft OZP, there should be good reasons to justify the rezoning of that “GB” area to “AGR”.

168. The Chairman said that at the meeting the villagers had shown good intention to resume farming activities and “AGR” was the appropriate zoning that provided greater opportunity for agricultural activities. Mr K.K. Ling supplemented that one of the distinct differences regarding the control of ‘Agricultural Use’ within “GB” and “AGR” zones was related to the filling of land. While any filling of land within the “GB” zone required planning permission from the Board, permission was not required for the laying of soil of thickness not exceeding 1.2m for cultivation purpose, or for construction of agricultural structures approved by LandsD, such as pigsty and chicken sheds, within the “AGR” zone.

169. The Vice-chairman said that planning should be people-oriented. It was clear in the villagers’ submission that there was a strong desire for re-establishing the village and rehabilitation of agricultural activities in So Lo Pun. Considering the villagers’ aspiration and that the subject “GB” areas were fallow agricultural land which might not possess high ecological value, he had no objection to rezoning one of the two “GB” areas under proposed Amendment Item A to “AGR”. Such rezoning would not change the physical appearance of the subject land immediately as any resumption of agricultural activities would take time to realise. Although Small House development in the “AGR” zone would be considered by the Board and each case would be considered on its individual merits, any proposed Small House development within the “AGR” zone would not be permitted unless land available for development within the “V” zone had been used up.

170. Another Member said that the planning intention of the “AGR” zone was to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The “AGR” zoning would be more appropriate as it would state clearly the planning intention to encourage rehabilitation of agricultural activities in So Lo Pun. It might

also have positive impact on the re-establishment of So Lo Pun Village and help achieve a more balanced planning for the area. As the scale of agricultural activities in So Lo Pun was not envisaged to be large, rezoning one of the two “GB” areas to “AGR” should be sufficient to meet the villagers’ aspiration at this stage. The north-eastern portion of the “GB” was more suitable for rezoning to “AGR” given its higher accessibility and proximity to the village entrance which was from the pier.

171. Mr K.K. Ling remarked that the villager’s request to designate agricultural lots for agricultural use had already been met by the draft OZP given that agricultural use was permitted in all zones. The draft OZP had not taken away the right of villagers to carry out agricultural activities permitted under the lease. However, if Members agreed that the area should be so zoned as a possible ground for agricultural rehabilitation, “AGR” would clearly reflect that planning intention.

172. A Member said that in the Lai Chi Wo case, rehabilitation of agricultural activities had been successfully implemented and considered acceptable by green groups. The Secretary supplemented that rehabilitation of agricultural activities in Lai Chi Wo was part of a rural development programme initiated by the villagers of Lai Chi Wo in collaboration with HKU and the Hong Kong Countryside Foundation. The programme attempted to achieve community revitalisation and environmental enhancement through farming, training, education and lifestyle change. The concerned agricultural land was zoned “AGR” on the draft Lai Chi Wo, Siu Tan and Sam A Tsuen OZP No. S/NE-LCW/1.

Adequacy of “GB” zone

173. The Chairman said that in general, there was presumption against development within the “GB” zone. Applications for any new Small House development, diversion of streams, filling of land/pond or excavation of land within the “GB” zone required planning permission from the Board and should satisfy the relevant criteria and comply with the relevant guidelines. Members noted that whilst rebuilding of existing NTEH and replacement of an existing domestic building by NTEH were always permitted, new NTEH developments would not be allowed in the proposed “GB(1)” zone, such as in the case of the Hoi Ha OZP.

174. Members generally considered that there was insufficient information to justify the

rezoning of the south-western portion of the FR site from “GB” to “CA” or “GB(1)” given that the site consisted of fallow agricultural land covered with grass and shrubs interspersed with trees. The designation of “GB” zone could provide a buffer between the village development and the “CA” and protect the existing green areas in the enclave. At the same time, the “GB” zone could allow flexibility for suitable development to meet community needs or for Small House development adjoining the existing village cluster, if any, subject to the scrutiny of the Board.

Conclusion

175. After further discussion, the Chairman summed up and said that the villagers had shown sufficient aspiration to resume agricultural activities in So Lo Pun. Successful example for rehabilitation of agricultural activities had been shown in Lai Chi Wo. To set out clearly the planning intention to encourage rehabilitation of agricultural activities in So Lo Pun, the rezoning of the north-eastern portion of the original “V” zone, which was generally flat and more easily accessible from the village and via the pier, from “GB” to “AGR” was considered more appropriate. Noting that the concerned area was mainly fallow agricultural land covered with grass and shrubs, the proposed rezoning should not result in any adverse impact on the natural environment.

176. The Chairman said that in response to the submission of Ms Wong So Chun, Jane regarding the lack of expertise amongst the villagers on nature conservation and rehabilitation of agricultural activities, AFCD in association other relevant institutions should be requested to provide advice to the villagers on the rehabilitation of agricultural activities in So Lo Pun, taking into account the potential impact on the natural environment. Members agreed that this should be conveyed to the departments outside of the zoning exercise.

177. The Chairman said that based on the incremental approach in meeting Small House demand, the expansion of the “V” zone to 4.12 ha as shown on the draft So Lo Pun OZP No. S/NE-SLP/1 as proposed by some further representers was considered inappropriate. When a genuine need for Small House development or village rehabilitation was established in the future, expansion of village type development onto the adjoining areas could be considered by the Board at that time.

Decision

178. After further deliberation, Members decided to vary the proposed Amendment Item A to the draft So Lo Pun OZP No. S/NE-SLP/1 by rezoning the land at the north-eastern end of the “V” zone to “AGR”; and to confirm the remaining part of the proposed Amendment Item A by rezoning the land at the south-western end of the “V” zone to “GB”. In accordance with section 6H of the TPO, the draft So Lo Pun OZP No. S/NE-SLP/1 should thereafter be read as including the above amendments. In tandem with the amendments in respect of the matters shown on the draft So Lo Pun OZP No. S/NE-SLP/1, the Notes and Explanatory Statement of the draft OZP should also be revised. The amendments would be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft So Lo Pun OZP under section 9 of the TPO.

179. Members then went through the reasons for not upholding the remaining part of the above-mentioned FRs and the other FRs and not to amend the draft So Lo Pun OZP to meet these FRs as detailed in paragraph 5.2 of TPB Paper No. 9787 and considered that they should be suitably amended to reflect the Board’s decision.

FRs No. F1 to F21

180. After deliberation, the Board agreed to note the supporting views of FRs No. F1 to F3 on the proposed Amendment Item A to the draft So Lo Pun OZP No. S/NE-SLP/1 regarding rezoning a piece of land at the south-western end of the “V” zone to “GB”.

181. The Board also agreed to partially meet FRs No. F8 to F9, F11 to F13, F15 to F18 and F20 to F21 by rezoning a piece of land at the north-eastern end of the “V” zone to “Agriculture” (“AGR”), and decided not to uphold FRs No. F4 to F7, F10, F14 and F19, and the remaining part of FRs No. F1 to F3, F8 to F9, F11 to F13, F15 to F18 and F20 to F21 for the following reasons:

Designation of “V” and “GB” Zones

(F1 to F7, F8 to F14 and F19 to F21)

- “(a) in order to minimise the adverse impacts on the natural environment, an incremental approach for designating the “Village Type Development” (“V”) zone for Small House development should be adopted to confine Small House developments at suitable locations of the village. Based on it and in view of the existing zero population, the lack of infrastructural facilities in So Lo Pun, the need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers, the villagers’ strong aspiration to rehabilitate agriculture and the current conditions of the land concerned, the rezoning of two pieces of land at the north-eastern end and south-western end of the “V” zone to “Agriculture” (“AGR”) and “Green Belt” (“GB”) respectively is appropriate;
- (b) the designation of a piece of land at the south-western end of the original “V” zone as “GB” is appropriate to provide a buffer between the village development and the “CA” zone and to protect the existing green areas in So Lo Pun. At the same time, this will allow flexibility for suitable development to meet the community needs or for Small House development adjoining to the existing village cluster, if any in future, subject to scrutiny of the Town Planning Board (the Board) under the planning application system;
- (c) the designation of a piece of land at the north-eastern end of the original “V” zone as “AGR” is appropriate to encourage the rehabilitation for cultivation and other agricultural purposes in So Lo Pun;
- (d) taking into account all the relevant planning considerations, expert advice from concerned government departments and views from relevant stakeholders, the draft So Lo Pun OZP incorporating the proposed amendments could strike a balance between enhancing nature conservation of the So Lo Pun area and meeting the needs of villagers for Small House development;

Adverse Impacts of Small House Development on Surrounding Environment

(F2 to F7)

- (e) the Lands Department, when processing Small House grant applications, will consult concerned government departments to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. There is sufficient control in the current administrative system to ensure that individual Small House development within the “V” zone would not entail unacceptable impacts on the surrounding environment;

Adequacy of the “GB” zone for Conservation and Proposal to Rezone the Proposed “GB” to “GB(1)” or “CA” (F2 to F7)

- (f) the “GB” zone is a conservation zone with a general presumption against development. In the “GB” zone, any Small House development, diversion of streams, filling of land/pond or excavation of land requires planning permission from the Board. There is appropriate and adequate protection for the proposed “GB” site. There is no strong justification for rezoning the proposed “GB” site to “GB(1)” or “CA”;

Landowners’ Interests and Rights

(F8, F9, F11, F14, F16 to F19 and F21)

- (g) all the building lots are covered by “V” zone, in which ‘House (New Territories Exempted House only)’ is always permitted. As for agricultural lots, ‘Agricultural Use’ in general is always permitted on land within the boundary of the draft OZP. Therefore, there is no deprivation of landowners’ rights in using their land;
- (h) the indigenous villagers’ right to build Small Houses should be duly respected and there is a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in So Lo Pun;
- (i) according to legal advice, the imposition of planning controls in the amended draft OZP would not be inconsistent with Articles 6, 40 and 105

of the Basic Law;

Private Land should be zoned for Village Type Development or Agricultural Use and/or Government Land should be zoned as “CA” or “GB”

(F8 to F9, F11 to F13 and F15 to F18, F20 and F21)

- (i) designation of the land use zones on the draft OZP including “V” and “GB” is considered appropriate taking into account all the relevant planning considerations. Landownership should not be the only factor for formulating the land use zones. Furthermore, ‘Agricultural Use’ in general is always permitted on land within the boundary of the draft OZP; and

Other Views Referring to the Whole Draft So Lo Pun OZP or Not Directly Related to the Proposed Amendment Item A (F1, F2, F4 to F7 and F21)

- (j) these views are not directly related to the proposed Amendment Item A and are similar to those views made in the original representations/comments, which have already been considered by the Board. The view on the failures in the representation hearing process/procedure is not relevant to the proposed Amendment Item A.”

Pak Lap

182. At the invitation of the Chairman, the Secretary recapitulated the views and proposals in respect of the draft Pak Lap OZP as raised by the further representers/representers/commenters in their written and/or oral submissions. Members noted that some of the views and proposals were not directly related to the proposed amendment to the draft Pak Lap OZP (i.e. to rezone a section of the existing stream in Pak Lap and the area to its east from “V” to “AGR” (proposed Amendment item A)) gazetted on 25.7.2014. These views included incorporating Pak Lap into country park; amending the Notes of the draft OZP for more stringent planning control; offering general comments on environmental conservation of the area; and failures in the hearing process/procedure of the representations and comments.

183. The Secretary said that in respect of the proposed amendment to the draft OZP, the request of the villagers was mainly to revert the size of the “V” zone to that shown on the draft Pak Lap OZP No. S/SK-PL/1 (i.e. 2.37 ha). As for the green groups and environmentalists, their grounds of FRs were mainly related to the excessive size of the “V” zone and the associated environmental impacts and they proposed to rezone the area with water ferns within the proposed “AGR” zone to “GB(1)” or “CA”.

Reverting the FR site to “V” zone

184. The Chairman said that the “V” zone boundary on the Pak Lap OZP had been delineated taking into account a number of factors including the ‘VE’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance and site-specific characteristics. Under the current circumstances and based on the incremental approach, it would be more reasonable to confine the “V” zone to the existing village settlements and the adjoining suitable land.

185. Members noted that according to the previous discussion during consideration of the representations and comments, the Board considered that an incremental approach for designating the “V” zone for Small House development should be adopted, and based on this approach and in view of the lack of infrastructural facilities in Pak Lap, the Board decided to rezone the FR site from “V” to “AGR”.

186. A Member said that land was still available within the “V” zone for accommodating 18 new Small Houses to meet the Small House demand. Any Small House developments should be confined within the “V” zone. Members generally noted that based on the incremental approach, the “V” zone should not be further expanded at this stage. Mr K.K. Ling said that the existing footpath and stream had served as a natural boundary to delineate the “V” zone to its east.

187. In response to the question of a Member, Mr K.K. Ling said that there was an existing footpath connecting Sai Kung Man Yee Road and Pak Lap. An improvement scheme for widening the footpath to 1.2m wide had been approved by the Government.

Rezoning of the FR Site to “CA” or “GB(1)”

188. Regarding some further representers’ proposal to rezone the FR site, where water fern was found, from “AGR” to “CA” or “GB(1)”, Members noted that according to AFCD, while water ferns were found scattered in the abandoned agricultural land, the colony was small and its occurrence was subject to site conditions. Members also noted that both AFCD and CTP/UD&L of PlanD considered it reasonable to rezone the FR site from “V” to “AGR” to reflect the nature of the area, which was grassland/fallow agricultural land. According to AFCD, the fallow agricultural land was considered having good potential for rehabilitation into agricultural use. The “AGR” zoning was therefore appropriate.

189. The Secretary said that to ensure that activities within the “AGR” zone would not result in adverse environmental impact, the Notes of the OZP had stipulated that diversion of stream, and filling of land/pond within the “AGR” zone were subject to the approval of the Board.

Conclusion

190. After further discussion, the Chairman summed up Members’ discussion that proposed Amendment Item A to rezone a section of the existing stream in Pak Lap and the area to its east from “V” to “AGR” was considered appropriate. An incremental approach should be adopted in the designation of “V” zone to meet the Small House demand. There was neither strong justification nor change in planning circumstances for a departure from the Board’s previous decision.

Decision

191. After further deliberation, Members decided to amend the draft Pak Lap OZP No. S/SK-PL/1 by the proposed Amendment Item A. In accordance with section 6H of the TPO, the draft Pak Lap OZP No. S/SK-PL/1 should thereafter be read as including the proposed amendment. The amendment would be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft Pak Lap OZP under section 9 of the TPO.

192. Members then went through the reasons for not upholding the FRs and not to amend the draft Pak Lap OZP to meet the FRs as detailed in paragraph 5.2 of TPB Paper No. 9788 and considered that they were appropriate

FRs No. F1 to F11

193. After deliberation, the Board agreed to note the supporting views of FRs No. F1 to F3 on the proposed Amendment Item A to the draft Pak Lap OZP No. S/SK-PL/1.

194. The Board also decided not to uphold FRs No. F4 to F11, and the remaining part of FRs No. F1 to F3 for the following reasons:

Designation of “V” zone (F1 to F11)

- “(a) in order to minimise the adverse impacts on the natural environment, an incremental approach for designating the “Village Type Development” (“V”) zone for Small House development should be adopted to confine Small House developments at suitable locations within the village. Based on it and in view of the existing low population, the lack of infrastructural facilities in Pak Lap and the need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers, the rezoning of the piece of land at the central part of Pak Lap from “V” to “Agriculture” (“AGR”) is appropriate;
- (b) the designation of the piece of land of the original “V” zone as “AGR” would maintain the nature of this area as the site is grassland/fallow agricultural land. At the same time, this will allow flexibility for suitable development to meet community needs for Small House development adjoining the existing village cluster, if any in future, subject to scrutiny of the Board under the planning application system;
- (c) taking into account all the relevant planning considerations, expert advice from concerned government departments and views from relevant stakeholders, the draft Pak Lap OZP incorporating the proposed

Amendment Item A could strike a balance between enhancing nature conservation of the Pak Lap area and meeting the needs of villagers for Small House development;

Adverse Impacts of Small House Development on Surrounding Environment

(F2 to F7)

- (d) the Lands Department, when processing Small House grant applications, will consult concerned government departments to ensure that all relevant departments would have an adequate opportunity to review and comment on the applications. There is sufficient control in the current administrative system to ensure that individual Small House development within the “V” zone would not entail unacceptable impacts on the surrounding environment;

Proposal to Rezone the Proposed “AGR” to “GB(1)” or “CA” (F2 to F7)

- (e) the “AGR” zoning for the site is appropriate from the agricultural and landscape planning perspectives. In the “AGR” zone, any Small House development, diversion of streams or filling of land/pond requires planning permission from the Town Planning Board (the Board) to ensure appropriate and adequate protection of the site. There is no strong justification for rezoning the site to “Green Belt (1)” or “Conservation Area”; and

Other Views Referring to the Whole Draft Pak Lap OZP or Not Directly Related to the Proposed Amendment Item A (F1 to F7)

- (f) these views are not directly related to the proposed Amendment Item A and are similar to those views made in the original representations/comments, which have already been considered by the Board. The view on the failures in the representation hearing process/procedure is not relevant to the proposed Amendment Item A.”

Agenda Items 6 and 7

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-KLH/465

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” zones, Lot 461 RP in D.D. 7, Tai Hang, Tai Po

Request for Deferment of Review of Application No. A/NE-KLH/466

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” zones, Lot 461 S.A in D.D. 7, Tai Hang, Tai Po

(TPB Paper No. 9795)

[The meeting was conducted in Cantonese.]

195. The Chairman said that since the two applications were for the same use submitted by the same representative, and the application sites were located in the vicinity of each other, the two applications would be considered together.

196. The Secretary reported that on 24.10.2014, the applicants’ representative wrote to the Secretary of the Board and requested the Board to defer making a decision on the review applications for two months so as to allow time for the applicants to prepare further information to supplement the justifications in support of the review applications. This was the second request from the applicants for deferment of the review hearing.

197. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicants needed more time to prepare further information which was essential for the consideration by the Board, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

198. After deliberation, the Board agreed to defer a decision on the review applications as requested by the applicants pending the submission of further information by the applicants. The Board also agreed that the review applications should be submitted for its consideration

within three months upon receipt of the further submission from the applicants. If the further information submitted by the applicants was not substantial and could be processed within a shorter time, the applications could be submitted to an earlier meeting for the Board's consideration. Since this was the second request for deferment, the Board also agreed to advise the applicants that the Board had allowed a total of four months for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Tai Ho Development Permission Area Plan No. DPA/I-TH/1
(TPB Paper No. 9792)

[The meeting was conducted in Cantonese.]

199. The Secretary briefly introduced the Paper. On 28.3.2014, the draft Tai Ho Development Permission Area (DPA) Plan No. DPA/I-TH/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month public exhibition period of the draft DPA Plan, a total of 642 representations were received. On 18.7.2014, the Town Planning Board (the Board) published the representations for three weeks for comments. Upon expiry of the publication period on 8.8.2014, a total of 206 comments were received.

200. Among the 642 representations received, 187 representations (R1 to R187) supported the draft DPA Plan and the remaining 455 representations (R188 to R642) objected to the draft DPA Plan. Among the 187 supportive representations, seven of them (R1 to R7) were submitted by green/concern groups and the remaining (R8 to R187) were largely by individuals. The supportive representations generally supported the draft DPA Plan to protect the Tai Ho area. Among the 455 adverse representations, five of them (R188 to R192) were submitted by New Territories Heung Yee Kuk, members of Islands District Council (IsDC), Mui Wo Rural Committee and Lantau Association of Societies; two of them (R196 and R197) were submitted by the representatives of the landowners in Tai Ho; and the remaining (R193 to 195 and R198 R642) were largely by individuals. The adverse representations opposed the

designation of “Site of Special Scientific Interest” (“SSSI”) and the limited “Village Type Development” (“V”) zone areas to meet the Small House development.

201. Among the 206 comments received, 195 comments were related to specific representations. 84 of them, submitted by green/concern groups and individuals, supported the supportive representations or opposed the adverse representations on environmental grounds. Another 111 comments, submitted by members of IsDC or local residents’ organisations and individuals, opposed the supportive representations on grounds that the ecological information of Tai Ho SSSI was outdated and the limited “V” zone areas did not respect the development rights of private lots.

202. Since the draft DPA Plan had attracted local and public concerns, it was recommended that the representations and comments should be considered by the full Board. The hearing could take place in the Board’s regular meeting.

203. As the representations and the related comments from the villagers and green/concern groups and individuals were different, it was suggested that the representations and comments be considered in two groups. Because of the large number of representations and comments received and to ensure efficiency of the hearing, it was recommended that a maximum of 10 minutes presentation time be allotted to each representer/commenter in the hearing session. The hearing was tentatively scheduled for 19.12.2014.

204. After deliberation, the Board agreed that the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 9

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments of the Draft Tze Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan No. S/K11/26

(TPB Paper No. 9794)

[The meeting was conducted in Cantonese.]

205. The Secretary briefly introduced the Paper. On 30.5.2014, the draft Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan No. S/K11/26 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).

206. During the two-month exhibition period, a total of six representations were received. On 8.8.2014, the representations were published for 3 weeks for public comments. One comment was received.

207. Among the six representations, five of them were related to Item A and/or B including two supportive (R1 supporting Item A and R2 supporting both Items A and B); one opposing (R4 against both items); one partly supporting and partly opposing (R3 opposed Item A but supported Item B); and one offering comments on the two items. R6 offered general comments on the building height restrictions and air ventilation issue in the San Po Kong business area, where the sites of the two items were located. The comment (C1) supported R1 and Item A.

208. Since there were only six representations and one comment received, it was considered more efficient for the full Board to hear the representations. It was recommended that the representations and comments should be considered by the full Board. The hearing could be accommodated in the Board's regular meeting.

209. As the nature of representations was similar, it was suggested that the hearing of the representations be considered in one group. The hearing was tentatively scheduled for 9.1.2015.

210. After deliberation, the Board agreed that the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 10

Information Note and Hearing Arrangement for Consideration of Representations of the draft Ping Chau Development Permission Area Plan No. DPA/NE-PC/1
(TPB Paper No. 9793)

[The meeting was conducted in Cantonese.]

211. The Secretary briefly introduced the Paper. On 28.3.2014, the draft Ping Chau Development Permission Area (DPA) Plan No. DPA/NE-PC/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 338 representations were received. On 20.6.2014, the representations were published for three weeks for public comment and no comment was received.

212. The views of the representations could be generally categorized into two groups. The first group comprised 331 representations (R1 to R329, R336 and R337) submitted by the Sai Kung North Rural Committee, Sai Kung North Tung Ping Chau Affairs Committee and village representatives (VRs), villagers and individuals who objected to the draft DPA Plan mainly on the grounds of inadequate “Village Type Development” (“V”) zone to meet the demand for village development, insufficient provision of infrastructure, and that G/IC uses should be located outside the village ‘environs’ of the villages. The second group of seven representations (R330 to R335 and R338) submitted by green/concern groups and individuals generally supported the draft DPA Plan.

213. Since the representations were mainly related to the extent of “V” zones, conservation of the natural environment of Ping Chau and provision of infrastructure which had attracted public attention, it was recommended that the representations should be considered by the full Board. The hearing could be accommodated in the Board’s regular meeting. As the representations from the rural committees/VRs/villagers and green/ concern groups were different, it was suggested that the representations be considered in two groups. Because of the large number of representations and comments received and to ensure efficiency of the hearing, it was recommended that a maximum of 10 minutes presentation time be allotted to each presenter/commenter in the hearing session. The hearing was tentatively scheduled for December 2014.

214. After deliberation, the Board agreed that the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 11

Any Other Business

[Open Meeting]

Appeal lodged against Court of First Instance's Judgment on the Miscellaneous Proceedings (HCMP No. 2781 of 2012) between Regal Shining Limited and the Secretary for Justice (on behalf of the Director of Lands Department and the Town Planning Board)

[The meeting was conducted in Cantonese.]

215. The Secretary reported that on 24.10.2014, the Board was briefed on the Court of First Instance's (CFI) judgment handed down on 21.10.2014 to dismiss the Miscellaneous Proceedings lodged by Regal Shining Limited against the Secretary for Justice (on behalf of the Director of the Lands Department and the Town Planning Board) in respect of the columbarium use in Hong Dao Tong, Kwai Chung. Hong Dao Tong was a private columbarium classified under Part B of the Information on Private Columbaria published by the Government.

216. On 17.11.2014, the plaintiff lodged an appeal against CFI's judgment on the Miscellaneous Proceedings on similar grounds of challenge in the CFI hearing. A copy of the Notice of Appeal had been circulated to Members before the meeting.

217. Members were invited to note the Appeal and to agree that the Secretary of the Board should represent the Board in all matters relating to the subject Court case in the usual manner.

218. After deliberation, the Board agreed that the Secretary should represent the Board in all matters relating to the subject Court case in the usual manner.

219. There being no other business, the meeting was closed at 7:15 p.m.